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STATE OF NORTH CAROLINA

PUBLIC LAWS AND RESOLUTIONS

PASSED BY THE

GENERAL ASSEMBLY

AT ITS

EXTRA SESSION OF 1938

BEGUN AND HELD IN THE CITY OF RALEIGH
ON
MONDAY, THE EIGHTH DAY OF AUGUST, A.D. 1938

AND AT ITS

REGULAR SESSION OF 1939

BEGUN AND HELD IN THE CITY OF RALEIGH
ON
WEDNESDAY, THE FOURTH DAY OF JANUARY, A.D. 1939

PUBLISHED BY AUTHORITY

PRESSES OF
THE ORANGE PRINTSHOP
CHAPEL HILL
1939

OFFICIAL REGISTER FOR 1939-1941

LEGISLATIVE DEPARTMENT

Wilkins P. Horton	President of the Senate	Chatham
D. L. Ward	Speaker of House of Representatives	Craven

EXECUTIVE DEPARTMENT

Clyde R. Hoey	Governor	Cleveland
Wilkins P. Horton	Lieutenant-Governor	Chatham
Thad Eure	Secretary of State	Hertford
Geo. Ross Pou	Auditor	Johnston
Chas. M. Johnson	Treasurer	Pender
Clyde A. Erwin	Superintendent of Public Instruction	Rutherford
Harry McMullan	Attorney-General	Beaufort

JUDICIAL DEPARTMENT

Supreme Court Judges

Walter P. Stacy	Chief Justice	New Hanover
Michael Schenck	Associate Justice	Henderson
Heriot Clarkson	Associate Justice	Mecklenburg
A. A. F. Seawell	Associate Justice	Lee
William A. Devin	Associate Justice	Granville
M. V. Barnhill	Associate Justice	McDowell
J. Wallace Winborne	Associate Justice	Nash

Superior Court Judges

C. Everett Thompson	First District	Pasquotank-Elizabeth City
Walter J. Boone	Second District	Nash-Nashville
R. Hunt Parker	Third District	Halifax-Roanoke Rapids
Clawson W. Williams	Fourth District	Lee-Sanford
J. Paul Frizzelle	Fifth District	Greene-Snow Hill
Henry L. Stevens, Jr.	Sixth District	Duplin-Warsaw
W. C. Harris	Seventh District	Wake-Raleigh
John J. Burney	Eighth District	New Hanover-Wilmington
Q. K. Nimocks, Jr.	Ninth District	Cumberland-Fayetteville
Leo Carr	Tenth District	Alamance-Burlington
John H. Clement	Eleventh District	Forsyth-Walkertown
H. Hoyle Sink	Twelfth District	Davidson-Lexington
F. Donald Phillips	Thirteenth District	Richmond-Rockingham
William H. Bobbitt	Fourteenth District	Mecklenburg-Charlotte
Frank M. Armstrong	Fifteenth District	Montgomery-Troy
Wilson Warlick	Sixteenth District	Catawba-Newton
J. A. Rousseau	Seventeenth District	Wilkes-North Wilkesboro
J. Will Pless, Jr.	Eighteenth District	McDowell-Marion
Zeb V. Nettles	Nineteenth District	Buncombe-Asheville
Felix E. Alley	Twentieth District	Haywood-Waynesville
Allen H. Gwyn	Twenty-First District	Rockingham-Reidsville

Special Judges

Frank S. Hill	Western Division	Cherokee-Murphy
G. Vernon Cowper	Eastern Division	Lenoir-Kinston
W. H. S. Burgwyn	Eastern Division	Northampton-Woodland
Sam J. Ervin, Jr.	Western Division	Burke-Morganton
Hubert E. Olive	Western Division	Davidson-Lexington
Luther Hamilton	Eastern Division	Carteret-Morehead City

Retired Judges

T. B. Finley	Wilkes-Wilkesboro
F. A. Daniels	Wayne-Goldsboro
P. A. McElroy	Madison-Marshall
W. B. Council	Catawba-Hickory
N. A. Sinclair	Cumberland-Fayetteville
Walter L. Small	Pasquotank-Elizabeth City
Henry A. Grady	Craven-New Bern
E. H. Cranmer	Brunswick-Southport
W. F. Harding	Mecklenburg-Charlotte

246249

SOLICITORS

CHESTER MORRIS	First District	Currituck-Currituck
DONNELL GILLIAM	Second District	Edgecombe-Tarboro
ERNEST R. TYLER	Third District	Bertie-Roxobel
CLAUDE C. CANADAY	Fourth District	Johnston-Benson
D. M. CLARK	Fifth District	Pitt-Greenville
J. ABNER BARKER	Sixth District	Sampson-Roseboro
WILLIAM Y. BICKETT	Seventh District	Wake-Raleigh
DAVID SINCLAIR	Eighth District	New Hanover-Wilmington
F. ERTEL CARLYLE	Ninth District	Robeson-Lumberton
WILLIAM H. MURDOCK	Tenth District	Durham-Durham
J. ERLE MCMICHEAL	Eleventh District	Forsyth-Winston-Salem
H. L. KOONTZ	Twelfth District	Guilford-Greensboro
ROWLAND S. PRUETTE	Thirteenth District	Anson-Wadesboro
JOHN G. CARPENTER	Fourteenth District	Gaston-Gastonia
CHARLES L. COGGIN	Fifteenth District	Rowan-Salisbury
L. S. SPURLING	Sixteenth District	Caldwell-Lenoir
AVALON E. HALL	Seventeenth District	Yadkin-Yadkinville
CLARENCE O. RIDINGS	Eighteenth District	Rutherford-Forest City
R. M. WELLS	Nineteenth District	Buncombe-Asheville
JOHN M. QUEEN	Twentieth District	Haywood-Waynesville
R. J. SCOTT	Twenty-First District	Stokes-Danbury

ADMINISTRATIVE DEPARTMENTS, BOARDS AND COMMISSIONS

ADJUTANT GENERAL'S DEPARTMENT

JOHN VAN B. METTS — Adjutant General — New Hanover

DEPARTMENT OF AGRICULTURE

W. KERR SCOTT — Commissioner — Alamance

STATE BOARD OF ALCOHOLIC CONTROL

CUTLAR MOORE — Chairman — Robeson

STATE BANKING DEPARTMENT

GURNEY P. HOOD — Commissioner — Wayne

NORTH CAROLINA STATE COMMISSION FOR THE BLIND

DR. ROMA S. CHEEK — Secretary — Wake

BUDGET BUREAU

R. G. DEYTON — Assistant Director — Yancey

STATE BOARD OF CHARITIES AND PUBLIC WELFARE

MRS. W. T. BOST — Commissioner — Wake

DEPARTMENT OF CONSERVATION AND DEVELOPMENT

R. BRUCE ETHERIDGE — Director — Dare

STATE BOARD OF ELECTIONS

W. A. LUCAS — Chairman — Wilson

NORTH CAROLINA RURAL ELECTRIFICATION AUTHORITY

DUDLEY BAGLEY — Chairman — Currituck

STATE BOARD OF HEALTH

DR. CARL V. REYNOLDS — Secretary — Buncombe

STATE HIGHWAY AND PUBLIC WORKS COMMISSION

FRANK L. DUNLAP — Chairman — Anson

NORTH CAROLINA HISTORICAL COMMISSION

DR. C. C. CRITTENDEN — Secretary — Wake

BUREAU OF IDENTIFICATION AND INVESTIGATION

FRED'K C. HANDY — Director — Wake

NORTH CAROLINA INDUSTRIAL COMMISSION

THURSTON A. WILSON ..... Chairman ..... Forsyth

DEPARTMENT OF INSURANCE

DAN C. BONEY ..... Commissioner ..... Lenoir

DEPARTMENT OF LABOR

FORREST H. SHUFORD ..... Commissioner ..... Ashe

STATE LIBRARY

MISS CARRIE L. BROUGHTON ..... Librarian ..... Wake

NORTH CAROLINA LIBRARY COMMISSION

MISS MARJORIE BEAL ..... Secretary ..... Wake

LOCAL GOVERNMENT COMMISSION

W. E. EASTERLING ..... Secretary ..... Wake

ADVISORY BOARD OF PAROLES

EDWIN GILL ..... Commissioner ..... Scotland

STATE PROBATION COMMISSION

J. H. SAMPLE ..... Director ..... Buncombe

DIVISION OF PURCHASES AND CONTRACT

J. BENTON STACY ..... Director ..... Rockingham

DEPARTMENT OF REVENUE

A. J. MAXWELL ..... Commissioner ..... Craven

STATE SCHOOL COMMISSION

LLOYD GRIFFIN ..... Secretary ..... Pasquotank

UNEMPLOYMENT COMPENSATION COMMISSION

CHARLES G. POWELL ..... Chairman ..... Granville

UTILITIES COMMISSION

STANLEY WINBORNE ..... Commissioner ..... Hertford

WORLD WAR VETERANS LOAN FUND

GRAHAM H. HOBBS ..... Commissioner ..... New Hanover

COMMISSIONERS OF AFFIDAVITS FOR NORTH CAROLINA RESIDENT IN OTHER STATES

NAME	EXPIRATION OF TERM	ADDRESS
PEARCE HORNE	January 22, 1940	Washington, D. C.
JEREMIAH J. MAHER	September 13, 1940	New York, N. Y.
JOHN B. PLOTKE	September 30, 1940	Philadelphia, Pa.

GENERAL ASSEMBLY

Special Session 1938

SENATORS

District	Name	Post Office
1	W. I. Halstead	South Mills
1	Jerry J. Hughes	Elizabeth City
2	Robert L. Coburn	Williamston
2	William B. Rodman, Jr.	Washington
3	Archie C. Gay*	Jackson
4	W. G. Clark	Tarboro
4	Dr. T. W. M. Long	Roanoke Rapids
5	Ed. G. Flanagan	Greenville
6	J. C. Eagles	Wilson
6	L. L. Gravely	Rocky Mount
7	E. V. Webb*	Kinston
7	John D. Larkins, Jr.	Trenton
8	Edgar H. Bain	Goldsboro
8	W. P. Holt	Smithfield
9	Jeff D. Johnson, Jr.	Clinton
9	Roy Rowe	Burgaw
10	W. C. Ewing	Fayetteville
10	J. C. Clark	Elizabethtown
11	W. S. Britt	Lumberton
12	Henry L. Ingram	Asheboro
12	Ryan McBryde	Raeford
13	L. Y. Ballentine	Varina
13	J. C. Pittman	Sanford
14	W. W. White	Manson
15	J. W. Noell	Roxboro
16	John Sprunt Hill	Durham
16	E. T. Sanders	Burlington
17	Thomas J. Gold	High Point
17	J. Benton Stacy*	Ruffin
18	L. A. Martin	Lexington
18	J. A. Patterson	Laurinburg
19	H. P. Taylor	Wadesboro
19	C. S. Massey	Waxhaw
20	J. A. Bell	Charlotte
20	John H. McDaniel	Concord
21	Edwin C. Gregory	Salisbury
22	H. M. Ratcliff	Winston-Salem
23	S. Gilmer Sparger	Danbury
24	B. C. Brock (R.)	Mocksville
25	B. B. Blackwelder	Hickory
25	Jack Joyner	Statesville
26	J. H. Separk	Gastonia
27	F. P. Bacon*	Tryon
27	C. E. Alcock	Forest City
28	L. M. Abernethy	Granite Falls
29	Roby T. Greer	Boone
30	Dr. J. H. Hutchins (R.)	Marshall
31	A. Hall Johnston*	Asheville
32	Mrs. E. L. McKee	Sylva
33	Kelly E. Bennett	Bryson City

* Did not serve.

SENATE OFFICERS

NAME	POSITION	POST OFFICE
WILKINS P. HORTON	President	Pittsboro
J. A. BELL	President *pro tem*	Charlotte
S. RAY BYERLY	Principal Clerk	Sanford
W. HERMAN SCOTT	Sergeant-at-Arms	Chapel Hill, R. F. D.
L. H. FOUNTAIN	Reading Clerk	Tarboro

REPRESENTATIVES

NAME	POST OFFICE	COUNTY
ED R. HANFORD	Burlington	Alamance
CHARLES R. ZICKLER	Taylorsville	Alexander
D. P. TAYLOR	Sparta	Alleghany
F. E. THOMAS	Wadesboro	Anson
J. B. HASH	Helton	Ashe
T. P. DELLINGER (R.)	Crossnore	Avery
S. M. BLOUNT	Washington	Beaufort
C. W. SPRUILL	Windsor	Bertie
LLOYD S. ELKINS	Bladenboro	Bladen
R. E. SENTELLE	Southport	Brunswick
GEORGE W. CRAIG	Asheville	Buncombe
RONALD E. FINCH	Black Mountain	Buncombe
FOREST C. BERRY	Morganton	Burke
E. T. BOST, JR.	Concord	Cabarrus
PERCY W. MEEKINS	Lenoir	Caldwell
H. V. LEARY	Camden	Camden
F. R. SEELEY	Beaufort	Carteret
W. C. TAYLOR	Blanch	Caswell
RALPH G. FLOWERS	Hickory	Catawba
WALTER D. SILER	Siler City	Chatham
HARRY P. COOPER**	Murphy	Cherokee
JOHN F. WHITE	Edenton	Chowan
DR. J. M. MAY (R.)	Hayesville	Clay
ERNEST A. GARDNER	Shelby	Cleveland
J. R. WILLIAMSON	Whiteville	Columbus
D. L. WARD	New Bern	Craven
D. LACY MCBRYDE	Fayetteville	Cumberland
EDWIN R. JOHNSON	Currituck	Currituck
ROY L. DAVIS	Wanchese	Dare
R. L. POPE	Thomasville	Davidson
J. BREWSTER GRANT (R.)	Mocksville	Davie
C. E. QUINN	Kenansville	Duplin
VICTOR S. BRYANT	Durham	Durham
OSCAR G. BARKER	Durham	Durham
W. W. EAGLES	Macclesfield	Edgecombe
REX GASS	Winston-Salem	Forsyth
T. SPRUILL THORNTON	Winston-Salem	Forsyth
VIRGIL A. WILSON	Rural Hall	Forsyth
WILLIE L. LUMPKIN	Louisburg	Franklin
R. GREGG CHERRY	Gastonia	Gaston
D. P. DELLINGER	Cherryville	Gaston
C. J. GRAY	Gatesville	Gates
T. M. JENKINS	Robbinsville	Graham
T. S. ROYSTER	Oxford	Granville
E. A. RASBERRY	Snow Hill	Greene
JOHN W. CAFFEY	Greensboro	Guilford
JOE T. CARRUTHERS, JR.	Greensboro	Guilford
RUPERT T. PICKENS	High Point	Guilford
A. M. ATKINSON	Enfield	Halifax
L. W. LEGGETT	Hobgood	Halifax
FRED S. THOMAS	Erwin	Harnett
J. F. CABE	Waynesville	Haywood
L. L. BURGIN	Horse Shoe, R.F.D.	Henderson
R. H. UNDERWOOD	Murfreesboro	Hertford
E. B. MCNEILL	Raeford	Hoke
GEORGE E. DAVIS	Lake Landing	Hyde
CON C. JOHNSTON	Mooresville	Iredell
T. C. LEDBETTER	Cullowhee	Jackson
F. H. BROOKS	Smithfield	Johnston
R. T. FULGHUM	Kenly	Johnston
C. P. BANKS	Trenton	Jones
W. E. HORNER	Sanford	Lee
R. H. ROUSE*	Kinston	Lenoir

REPRESENTATIVES—CONTINUED

NAME	POST OFFICE	COUNTY
THORNE CLARK	Lincolnton	Lincoln
R. A. PATTON	Franklin	Macon
JAMES M. BALEY (R.)	Marshall	Madison
HUGH G. HORTON	Williamston	Martin
D. F. GILES	Marion	McDowell
MERCER J. BLANKENSHIP	Charlotte	Mecklenburg
E. L. MAYHEW	Charlotte	Mecklenburg
JAMES B. VOGLER	Charlotte	Mecklenburg
JETER C. BURLESON (R.)	Bakersville	Mitchell
C. C. HOWELL*	Troy	Montgomery
J. HAWLEY POOLE	West End	Moore
CLAUDE C. ABERNATHY	Spring Hope	Nash
W. E. FENNER	Rocky Mount	Nash
THOMAS E. COOPER	Wilmington	New Hanover
J. C. HOBBS	Wilmington	New Hanover
H. L. JOYNER	Jackson	Northampton
R. N. SUMMERSILL	Jacksonville	Onslow
B. J. HOWARD	Chapel Hill	Orange
TOM BANKS	Arapahoe	Pamlico
F. WEBB WILLIAMS	Elizabeth City	Pasquotank
JOHN J. BEST	Burgaw	Pender
J. T. BENTON	Hertford	Perquimans
E. P. WARREN	Hurdle Mills	Person
JOHN HILL PAYLOR	Farmville	Pitt
JOHN S. MOORE	Bethel	Pitt
T. J. MCDOWELL	Campobello, S. C., R.F.D.	Polk
W. BRYAN DAVIS	Randleman	Randolph
ROBERT T. MCNAIR	Rockingham	Richmond
S. L. ADAMS	Rowland	Robeson
T. J. SMITH	St. Pauls	Robeson
T. CLARENCE STONE	Stoneville	Rockingham
JOE W. GARRETT	Madison	Rockingham
WALTER MURPHY	Salisbury	Rowan
GEORGE A. UZZELL	Salisbury	Rowan
GRADY WITHROW	Hollis	Rutherford
ENOCH W. WILSON	Newton Grove	Sampson
JENNINGS G. KING	Laurinburg	Scotland
JOHN H. NORWOOD	Norwood	Stanly
R. J. SCOTT	Danbury	Stokes
N. J. MARTIN	Dobson	Surry
B. C. JONES	Bryson City	Swain
PAT KIMZEY	Brevard	Transylvania
C. W. TATEM	Columbia	Tyrrell
BROOKS PRICE	Waxhaw, R.F.D.	Union
J. M. PEACE	Henderson	Vance
ARCH T. ALLEN	Raleigh	Wake
CLARENCE E. MITCHELL	Raleigh	Wake
WM. T. HATCH	Millbrook	Wake
T. H. AYCOCK	Warrenton	Warren
HARRY STELL	Plymouth	Washington
W. F. MILLER*	Boone	Watauga
W. WILEY ANDREWS	Goldsboro	Wayne
WM. H. BEST, JR.	Goldsboro	Wayne
F. J. MCDUFFIE (R.)	Wilkesboro	Wilkes
TROY T. BARNES	Wilson	Wilson
JETER L. HAYNES (R.)	Jonesville	Yadkin
MRS. CHAS. HUTCHINS	Burnsville	Yancey

* Deceased.
** Did not serve.

HOUSE OFFICERS

NAME	POSITION	POST OFFICE
R. GREGG CHERRY	Speaker	Gastonia
W. A. BAKER	Principal Clerk	Raleigh
MISS ROSA B. MUND	Engrossing Clerk	Concord
DAN W. TOMKINS	Reading Clerk	Sylva
W. T. BROWN	Sergeant-at-Arms	Hertford

GENERAL ASSEMBLY, 1939

SENATORS

District	Name	Post Office
1	J. J. Hughes	Elizabeth City
1	W. I. Halstead	South Mills
2	W. B. Rodman, Jr.	Washington
2	D. B. Fearing	Manteo
3	C. W. Spruill	Windsor
4	W. G. Clark	Tarboro
4	Dr. T. W. M. Long	Roanoke Rapids
5	Arthur B. Corey	Greenville
6	J. C. Eagles	Wilson
6	W. L. Lumpkin	Louisburg
7	John D. Larkins, Jr.	Trenton
7	Fred I. Sutton	Kinston
8	Elmer J. Wellons	Smithfield
8	Edgar H. Bain	Goldsboro
9	George R. Ward	Wallace
9	Emmett H. Bellamy	Wilmington
10	S. B. Frink	Southport
10	K. Clyde Council	Wananish
11	Robert A. McIntyre	Lumberton
12	M. G. Boyette	Carthage
12	Fred S. Thomas	Erwin
13	Wade Barber	Pittsboro
13	L. Y. Ballentine	Varina
14	Frank H. Gibbs	Warrenton
15	John S. Watkins	Virgilina, Va., R.F.D.
16	Joseph H. Warren	Prospect Hill
16	John W. Umstead, Jr.	Chapel Hill
17	Thos. J. Gold	High Point
17	J. Hampton Price	Leaksville
18	O. C. Bruton	Mt. Gilead
18	J. G. Jewell	Hamlet
19	H. P. Taylor	Wadesboro
19	W. Erskine Smith	Albemarle
20	A. B. Palmer	Concord
20	Joe L. Blythe	Charlotte
21	Edwin C. Gregory	Salisbury
22	Gordon Gray	Winston-Salem
23	Fred Folger	Mt. Airy
24	C. H. Cowles (R.)	North Wilkesboro
25	W. A. Graham	Iron Station
25	Jack Joyner	Statesville
26	J. H. Separk	Gastonia
27	Ralph W. Gardner	Shelby
27	L. B. Prince	Hendersonville
28	H. J. Hatcher	Morganton
29	W. B. Austin	Jefferson
30	J. V. Bowers (R.)	Newland
31	Zeb F. Curtis	Asheville
32	Chester A. Cogburn	Canton
33	R. B. Morphew	Robbinsville

SENATE OFFICERS

Name	Position	Post Office
Wilkins P. Horton	President	Pittsboro
W. Erskine Smith	President *pro tem*	Albemarle
S. Ray Byerly	Principal Clerk	Sanford
L. H. Fountain	Reading Clerk	Tarboro
W. Herman Scott	Sergeant-at-Arms	Chapel Hill, R.F.D.

REPRESENTATIVES

NAME	POST OFFICE	COUNTY
DR. WILL S. LONG	Graham	Alamance
A. C. PAYNE	Taylorsville	Alexander
S. W. BROWN	Sparta	Alleghany
U. B. BLALOCK	Wadesboro	Anson
IRA T. JOHNSTON	Jefferson	Ashe
W. C. PITMAN (R.)	Spear	Avery
DR. ZENO L. EDWARDS	Washington	Beaufort
THOMAS N. PEELE	Lewiston	Bertie
U. S. PAGE	Fayetteville, R.F.D.	Bladen
CORNELIUS THOMAS	Shallotte	Brunswick
R. E. FINCH	Black Mountain	Buncombe
HUBERT C. JARVIS	Asheville	Buncombe
LEON BUTLER	Valdese	Burke
E. T. BOST, JR.	Concord	Cabarrus
J. T. PRITCHETT	Lenoir	Caldwell
R. L. BRAY	Belcross	Camden
FRED R. SEELEY	Beaufort	Carteret
W. C. TAYLOR	Blanch	Caswell
RALPH FLOWERS	Hickory	Catawba
C. C. HALL	Pittsboro	Chatham
CLYDE H. JARRETT (R.)	Andrews	Cherokee
JOHN F. WHITE	Edenton	Chowan
A. LEE PENLAND	Hayesville	Clay
O. M. MULL	Shelby	Cleveland
RAYMOND B. MALLARD	Tabor City	Columbus
D. L. WARD	New Bern	Craven
D. LACY MCBRYDE	Fayetteville	Cumberland
G. C. BOSWOOD	Gregory	Currituck
ROY L. DAVIS	Wanchese	Dare
J. LEE WILSON	Lexington	Davidson
J. B. GRANT (R.)	Mocksville	Davie
C. E. QUINN	Kenansville	Duplin
VICTOR S. BRYANT	Durham	Durham
FORREST A. POLLARD	Durham	Durham
W. W. EAGLES	Macclesfield	Edgecombe
REX GASS	Winston-Salem	Forsyth
VIRGIL A. WILSON	Rural Hall	Forsyth
T. SPRUILL THORNTON	Winston-Salem	Forsyth
ASHLEY F. JOHNSON	Louisburg	Franklin
CARL RUDISILL	Cherryville	Gaston
R. G. CHERRY	Gastonia	Gaston
E. S. A. ELLENOR	Gates	Gates
J. H. CRAWFORD	Robbinsville	Graham
JAMES W. HORNER	Oxford	Granville
E. A. RASBERRY	Snow Hill	Greene
JOE T. CARRUTHERS, JR.	Greensboro	Guilford
JOHN W. CAFFEY	Greensboro	Guilford
RUPERT T. PICKENS	High Point	Guilford
B. B. EVERETT	Palmyra	Halifax
WM. D. HOLOMAN	Weldon	Halifax
N. MCK. ROSS	Lillington	Harnett
GLENN C. PALMER	Clyde, R.F.D.	Haywood
L. L. BURGIN	Horse Shoe, R.F.D.	Henderson
R. H. UNDERWOOD	Murfreesboro	Hertford
E. B. MCNEILL	Raeford	Hoke
GEORGE T. DAVIS	Swan Quarter	Hyde
ZEB V. TURLINGTON	Mooresville	Iredell
DAN TOMPKINS	Sylva	Jackson
LAWRENCE H. WALLACE	Smithfield	Johnston
R. T. FULGHUM	Kenly	Johnston
R. P. BENDER	Pollocksville	Jones
J. M. WILCOX	Sanford, R.F.D.	Lee
FITZHUGH E. WALLACE	Kinston	Lenoir
SHELDON M. ROPER	Lincolnton	Lincoln
GEORGE B. PATTON	Franklin	Macon
J. M. BALEY, JR. (R.)	Marshall	Madison
HUGH G. HORTON	Williamston	Martin
ASHBY ROBINSON	Old Fort	McDowell
J. B. VOGLER	Charlotte	Mecklenburg
MARVIN L. RITCH	Charlotte	Mecklenburg
J. W. ALEXANDER	Charlotte	Mecklenburg
JETER C. BURLESON (R.)	Bakersville	Mitchell
E. R. BURT	Biscoe	Montgomery
W. R. CLEGG	Carthage	Moore
W. E. FENNER	Rocky Mount	Nash
C. C. ABERNATHY	Spring Hope	Nash
JOHN Q. LEGRAND	Wilmington	New Hanover
JOHN R. MORRIS	Wilmington	New Hanover

REPRESENTATIVES—CONTINUED

NAME	POST OFFICE	COUNTY
H. L. JOYNER	Jackson	Northampton
GEORGE W. PHILLIPS	Jacksonville	Onslow
ROLAND P. MCCLAMROCH	Chapel Hill	Orange
DALLAS MALLISON	Oriental	Pamlico
W. CLARENCE MORSE, JR.	Elizabeth City	Pasquotank
A. H. DAVIS	Burgaw	Pender
J. T. BENTON	Hertford	Perquimans
E. P. WARREN	Hurdle Mills	Person
S. O. WORTHINGTON	Greenville	Pitt
JOHN S. MOORE	Bethel	Pitt
C. P. ROGERS	Tryon	Polk
J. D. ROSS	Asheboro	Randolph
R. T. MCNAIR	Rockingham	Richmond
FRANK MCNEILL	Lumberton	Robeson
I. P. GRAHAM	Proctorville	Robeson
T. C. STONE	Stoneville	Rockingham
JOE W. GARRETT	Madison	Rockingham
WALTER MURPHY	Salisbury	Rowan
GEORGE UZZELL	Salisbury	Rowan
GRADY WITHROW	Hollis	Rutherford
JAMES B. BAREFOOT (R.)	Godwin, R. F. D.	Sampson
O. L. MOORE	Laurinburg	Scotland
C. C. EFIRD	Albemarle	Stanly
WM. F. MARSHALL	Danbury	Stokes
HENRY C. DOBSON	Elkin	Surry
T. D. BRYSON, JR.	Bryson City	Swain
W. PAT KIMZEY	Brevard	Transylvania
R. S. KNIGHT, JR.	Columbia	Tyrrell
O. L. RICHARDSON	Monroe	Union
W. A. HUNT	Henderson	Vance
ARCH T. ALLEN	Raleigh	Wake
WM. T. HATCH	Raleigh	Wake
C. B. PARK, JR.	Raleigh	Wake
JOHN KERR, JR.	Warrenton	Warren
WILBUR M. DARDEN	Plymouth	Washington
ROBY T. GREER	Boone	Watauga
J. LESLIE CRAWFORD	Pikeville	Wayne
W. FRANK TAYLOR	Goldsboro	Wayne
DAVID C. SEBASTIAN (R.)	Hays	Wilkes
LARRY I. MOORE, JR.	Wilson	Wilson
FRANK M. WOODHOUSE	Boonville	Yadkin
D. M. BUCK	Bald Mountain	Yancey

HOUSE OFFICERS

NAME	POSITION	POST OFFICE
D. L. WARD	Speaker	New Bern
W. A. BAKER	Principal Clerk	Raleigh
MISS ROSA B. MUND	Engrossing Clerk	Concord
DON SEAWELL	Reading Clerk	Chapel Hill
W. T. BROWN	Sergeant-at-Arms	Hertford

ENROLLING DEPARTMENT

NAME	POSITION	POST OFFICE
LAURIE MCEACHERN	Enrolling Clerk	Raeford
MRS. R. C. POWELL	Assistant	Raleigh

CONSTITUTION

OF THE

State of North Carolina

PREAMBLE

We, the people of the State of North Carolina, grateful to Almighty God, the Sovereign Ruler of Nations, for the preservation of the American Union and the existence of our civil, political, and religious liberties, and acknowledging our dependence upon Him for the continuance of those blessings to us and our posterity, do, for the more certain security thereof and for the better government of this State, ordain and establish this Constitution: Preamble.

ARTICLE I

DECLARATION OF RIGHTS

That the great, general, and essential principles of liberty and free government may be recognized and established, and that the relations of this State to the Union and Government of the United States, and those of the people of this State to the rest of the American people, may be defined and affirmed, we do declare:

SECTION 1. *The equality and rights of men.* That we hold it to be self-evident that all men are created equal; that they are endowed by their Creator with certain inalienable rights; that among these are life, liberty, the enjoyment of the fruits of their own labor, and the pursuit of happiness. The equality and inalienable rights of men.

SEC. 2. *Political power and government.* That all political power is vested in, and derived from, the people; all government of right originates from the people, is founded upon their will only, and is instituted solely for the good of the whole. Political power and government.

SEC. 3. *Internal government of the State.* That the people of this State have the inherent, sole and exclusive right of regulating the internal government and policies thereof, and of altering and abolishing their Constitution and form of government whenever it may be necessary for their safety and happiness; but every such right should be exercised in pursuance of the law, and consistently with the Constitution of the United States. Internal government of the State.

SEC. 4. *That there is no right to secede.* That this State shall ever remain a member of the American Union; that the people thereof are a part of the American Nation; that there is no right on the part of the State to secede, and that all attempts, from That there is no right to secede.

whatever source or upon whatever pretext, to dissolve said Union or to sever said Nation, ought to be resisted with the whole power of the State.

Paramount allegiance to the United States Government.

SEC. 5. *Of allegiance to the United States Government.* That every citizen of this State owes paramount allegiance to the Constitution and Government of the United States, and that no law or ordinance of the State in contravention or subversion thereof can have any binding force.

Public debt; bonds issued under ordinance of Convention of 1868, '68-'69, '69-'70, declared invalid.

SEC. 6. *Public debt; bonds issued under ordinance of Convention of 1868, '68-'69, '69-'70, declared invalid; exception.* The State shall never assume or pay, or authorize the collection of any debt or obligation, express or implied, incurred in aid of insurrection or rebellion against the United States, or any claim for the loss or emancipation of any slave; nor shall the General Assembly assume or pay, or authorize the collection of any tax to pay, either directly or indirectly, expressed or implied, any debt or bond incurred, or issued, by authority of the Convention of the year one thousand eight hundred and sixty-eight, nor any debt or bond incurred or issued by the Legislature of the year one thousand eight hundred and sixty-eight, either at its special session of the year one thousand eight hundred and sixty-eight, or at its regular sessions of the years one thousand eight hundred and sixty-eight and one thousand eight hundred and sixty-nine, and one thousand eight hundred and sixty-nine and one thousand eight hundred and seventy, except the bonds issued to fund the interest on the old debt of the State, unless the proposing to pay the same shall have first been submitted to the people, and by them ratified by the vote of a majority of all the qualified voters of the State at a regular election held for that purpose.

Exception.

Exclusive emoluments, etc.

SEC. 7. *Exclusive emoluments, etc.* No man or set of men are entitled to exclusive or separate emoluments or privileges from the community but in consideration of public services.

The legislative, executive, and judicial powers distinct.

SEC. 8. *The legislative, executive, and judicial powers distinct.* The legislative, executive, and supreme judicial powers of the government ought to be forever separate and distinct from each other.

Of the power of suspending laws.

SEC. 9. *Of the power of suspending laws.* All power of suspending laws, or execution of laws, by any authority, without the consent of the representatives of the people, is injurious to their rights, and ought not to be exercised.

Election free.

SEC. 10. *Election free.* All elections ought to be free.

In criminal prosecutions.

SEC. 11. *In criminal prosecutions.* In all criminal prosecutions every man has the right to be informed of the accusation against him, and to confront the accusers and witnesses with other testi-

mony, and to have counsel for his defense, and not be compelled to give evidence against himself, or to pay costs, jail fees, or necessary witness fees of the defense, unless found guilty.

Answers to criminal charges.

SEC. 12. *Answers to criminal charges.* No person shall be put to answer any criminal charge except as hereinafter allowed, but by indictment, presentment, or impeachment.

Right of trial by jury.

SEC. 13. *Right of jury.* No person shall be convicted of any crime but by the unanimous verdict of a jury of good and lawful men in open court. The Legislature may, however, provide other means of trial for petty misdemeanors, with the right of appeal.

Excessive bail.

SEC. 14. *Excessive bail.* Excessive bail should not be required, nor excessive fines imposed, nor cruel or unusual punishment inflicted.

General warrants.

SEC. 15. *General warrants.* General warrants, whereby any officer or messenger may be commanded to search suspected places, without evidence of the act committed, or to seize any person or persons not named, whose offense is not particularly described and supported by evidence, are dangerous to liberty, and ought not to be granted.

Imprisonment for debt.

SEC. 16. *Imprisonment for debt.* There shall be no imprisonment for debt in this State, except in cases of fraud.

No person taken, etc., but by law of the land.

SEC. 17. *No person taken, etc., but by law of the land.* No person ought to be taken, imprisoned, or disseized of his freehold, liberties or privileges, or outlawed or exiled, or in any manner deprived of his life, liberty, or property but by the law of the land.

Persons restrained of liberty.

SEC. 18. *Persons restrained of liberty.* Every person restrained of his liberty is entitled to a remedy to inquire into the lawfulness thereof, and to remove the same, if unlawful; and such remedy ought not to be denied or delayed.

Controversies at law respecting property.

SEC. 19. *Controversies at law respecting property.* In all controversies at law respecting property, the ancient mode of trial by jury is one of the best securities of the rights of the people, and ought to remain sacred and inviolable.

Freedom of the press.

SEC. 20. *Freedom of the press.* The freedom of the press is one of the great bulwarks of liberty, and therefore ought never to be restrained, but every individual shall be held responsible for the abuse of the same.

Habeas corpus.

SEC. 21. *Habeas corpus.* The privileges of the writ of *habeas corpus* shall not be suspended.

Property qualification.

SEC. 22. *Property qualification.* As political rights and privileges are not dependent upon, or modified by, property, therefore no property qualification ought to affect the right to vote or hold office.

Representation and taxation.

SEC. 23. *Representation and taxation.* The people of the State ought not to be taxed, or made subject to the payment of any impost or duty without the consent of themselves, or their representatives in General Assembly, freely given.

Militia and the right to bear arms.

SEC. 24. *Militia and the right to bear arms.* A well regulated militia being necessary to the security of a free State, the right of the people to keep and bear arms shall not be infringed; and, as standing armies in time of peace are dangerous to liberty, they ought not to be kept up, and the military should be kept under strict subordination to, and governed by, the civil power. Nothing herein contained shall justify the practice of carrying concealed weapons, or prevent the Legislature from enacting penal statutes against said practice.

Right of the people to assemble together.

SEC. 25. *Right of the people to assemble together.* The people have a right to assemble together to consult for their common good, to instruct their representatives, and to apply to the Legislature for redress of grievances. But secret political societies are dangerous to the liberty of a free people, and should not be tolerated.

Religious liberty.

SEC. 26. *Religious liberty.* All men have a natural and inalienable right to worship Almighty God according to the dictates of their own consciences, and no human authority should, in any case whatever, control or interfere with the rights of conscience.

Education.

SEC. 27. *Education.* The people have the right to the privilege of education, and it is the duty of the State to guard and maintain that right.

Elections should be frequent.

SEC. 28. *Elections should be frequent.* For redress of grievances, and for amending and strengthening the laws, elections should be often held.

Recurrence to fundamental principles.

SEC. 29. *Recurrence to fundamental principles.* A frequent recurrence to fundamental principles is absolutely necessary to preserve the blessings of liberty.

Hereditary emoluments, etc.

SEC. 30. *Hereditary emoluments, etc.* No hereditary emoluments, privileges, or honors ought to be granted or conferred in this State.

Perpetuities, etc.

SEC. 31. *Perpetuities, etc.* Perpetuities and monopolies are contrary to the genius of a free State, and ought not to be allowed.

Ex post facto laws.

SEC. 32. *Ex post facto laws.* Retrospective laws, punishing acts committed before the existence of such laws, and by them only declared criminal, are oppressive, unjust, and incompatible with liberty; wherefore no *ex post facto* law ought to be made. No law taxing restrospectively sales, purchases, or other acts previously done, ought to be passed.

SEC. 33. *Slavery prohibited.* Slavery and involuntary servitude, otherwise than for crime, whereof the parties shall have been duly convicted, shall be, and are hereby, forever prohibited within the State. Slavery prohibited.

SEC. 34. *State boundaries.* The limits and boundaries of the State shall be and remain as they now are. State boundaries.

SEC. 35. *Courts shall be open.* All courts shall be open; and every person for an injury done him in his lands, goods, person, or reputation, shall have remedy by due course of law, and right and justice administered without sale, denial, or delay. Courts shall be open.

SEC. 36. *Soldiers in time of peace.* No soldier shall, in time of peace, be quartered in any house without the consent of the owner; nor in time of war but in a manner prescribed by law. Soldiers in time of peace.

SEC. 37. *Other rights of the people.* This enumeration of rights shall not be construed to impair or deny others retained by the people; and all powers not herein delegated remain with the people. Other rights of the people.

ARTICLE II

LEGISLATIVE DEPARTMENT

SECTION 1. *Two branches.* The legislative authority shall be vested in two distinct branches, both dependent on the people, to wit: a Senate and House of Representatives. Two branches.

SEC. 2. *Time of assembling.* The Senate and House of Representatives shall meet biennially on the first Wednesday after the first Monday in January next after their election; and, when assembled, shall be denominated the General Assembly. Neither house shall proceed upon public business unless a majority of all the members are actually present. Time of assembling.

SEC. 3. *Number of Senators.* The Senate shall be composed of fifty Senators, biennially chosen by ballot. Number of senators.

SEC. 4. *Regulations in relation to districting the State for Senators.* The Senate Districts shall be so altered by the General Assembly, at the first session after the return of every enumeration by order of Congress, that each Senate District shall contain, as near as may be, an equal number of inhabitants, excluding aliens and Indians not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a Senate District, unless such county shall be equitably entitled to two or more Senators. Regulations in relation to districting the State for senators.

SEC. 5. *Regulations in relation to apportionment of representatives.* The House of Representatives shall be composed of one hundred and twenty Representatives, biennially chosen by ballot, to be elected by the counties respectively, according to their popu- Regulations in relation to apportionment of representatives.

lation, and each county shall have at least one Representative in the House of Representatives, although it may not contain the requisite ratio of representation; this apportionment shall be made by the General Assembly at the respective times and periods when the districts of the Senate are hereinbefore directed to be laid off.

Ratio of representation.

SEC. 6. *Ratio of representation.* In making the apportionment in the House of Representatives, the ratio of representation shall be ascertained by dividing the amount of the population of the State, exclusive of that comprehended within those counties which do not severally contain the one hundred and twentieth part of the population of the State, by the number of Representatives, less the number assigned to such counties; and in ascertaining the number of the population of the State, aliens and Indians not taxed shall not be included. To each county containing the said ratio and not twice the said ratio there shall be assigned one Representative; to each county containing two but not three times the said ratio there shall be assigned two Representatives, and so on progressively, and then the remaining Representatives shall be assigned severally to the counties having the largest fractions.

Qualifications for senators.

SEC. 7. *Qualifications for senators.* Each member of the Senate shall not be less than twenty-five years of age, shall have resided in the State as a citizen two years, and shall have usually resided in the district for which he was chosen one year immediately preceding his election.

Qualifications for representatives.

SEC. 8. *Qualifications for representatives.* Each member of the House of Representatives shall be a qualified elector of the State, and shall have resided in the county for which he is chosen for one year immediately preceding his election.

Election of officers.

SEC. 9. *Election of officers.* In the election of all officers whose appointment shall be conferred upon the General Assembly by the Constitution, the vote shall be *viva voce.*

Powers in relation to divorce and alimony.

SEC. 10. *Powers in relation to divorce and alimony.* The General Assembly shall have power to pass general laws regulating divorce and alimony, but shall not have power to grant a divorce or secure alimony in any individual case.

Private laws in relation to names of persons, etc.

SEC. 11. *Private laws in relation to names of persons, etc.* The General Assembly shall not have power to pass any private law to alter the name of any person, or to legitimate any person not born in lawful wedlock, or to restore to the rights of citizenship any person convicted of an infamous crime, but shall have power to pass general laws regulating the same.

Thirty days notice shall be given anterior to passage of private laws.

SEC. 12. *Thirty days notice shall be given anterior to passage of private laws.* The General Assembly shall not pass any private law, unless it shall be made to appear that thirty days notice

of application to pass such a law shall have been given, under such direction and in such manner as shall be provided by law.

Vacancies.

SEC. 13. *Vacancies.* If vacancies shall occur in the General Assembly by death, resignation, or otherwise, writs of election shall be issued by the Governor under such regulations as may be prescribed by law.

Revenue.

SEC. 14. *Revenue.* No law shall be passed to raise money on the credit of the State, or to pledge the faith of the State, directly or indirectly, for the payment of any debt, or to impose any tax upon the people of the State, or allow the counties, cities or towns to do so, unless the bill for the purpose shall have been read three several times in each House of the General Assembly and passed three several readings, which readings shall have been on three different days, and agreed to by each House respectively, and unless the yeas and nays on the second and third readings of the bill shall have been entered on the journal.

Entails.

SEC. 15. *Entails.* The General Assembly shall regulate entails in such a manner as to prevent perpetuities.

Journals.

SEC. 16. *Journals.* Each House shall keep a journal of its proceedings, which shall be printed and made public immediately after the adjournment of the General Assembly.

Protest.

SEC. 17. *Protest.* Any member of either House may dissent from, and protest against, any act or resolve which he may think injurious to the public, or any individual, and have the reasons of his dissent entered on the journal.

Officers of the House.

SEC. 18. *Officers of the House.* The House of Representatives shall choose their own Speaker and other officers.

President of the Senate.

SEC. 19. *President of the Senate.* The Lieutenant-Governor shall preside in the Senate, but shall have no vote unless it may be equally divided.

Other senatorial officers.

SEC. 20. *Other senatorial officers.* The Senate shall choose its other officers and also a Speaker (*pro tempore*) in the absence of the Lieutenant-Governor, or when he shall exercise the office of Governor.

Style of the acts.

SEC. 21. *Style of the acts.* The style of the acts shall be: "The General Assembly of North Carolina do enact."

Powers of the General Assembly.

SEC. 22. *Powers of the General Assembly.* Each House shall be judge of the qualifications and election of its own members, shall sit upon its own adjournment from day to day, prepare bills to be passed into laws; and the two Houses may also jointly adjourn to any future day, or other place.

Bills and resolutions to be read three times, etc.

SEC. 23. *Bills and resolutions to be read three times, etc.* All bills and resolutions of a legislative nature shall be read three times in each House before they pass into laws, and shall be signed by the presiding officers of both Houses.

Oath of members.

SEC. 24. *Oath of members.* Each member of the General Assembly, before taking his seat, shall take an oath or affirmation that he will support the Constitution and laws of the United States, and the Constitution of the State of North Carolina, and will faithfully discharge his duty as a member of the Senate or House of Representatives.

Terms of office.

SEC. 25. *Terms of office.* The terms of office for Senators and members of the House of Representatives shall commence at the time of their election.

Yeas and Nays.

SEC. 26. *Yeas and nays.* Upon motion made and seconded in either House by one-fifth of the members present, the yeas and nays upon any question shall be taken and entered upon the journals.

Election for members of the General Assembly.

SEC. 27. *Election for members of the General Assembly.* The election for members of the General Assembly shall be held for the respective districts and counties, at the places where they are now held, or may be directed hereafter to be held, in such manner as may be prescribed by law, on the first Thursday in August, in the year one thousand eight hundred and seventy, and every two years thereafter. But the General Assembly may change the time of holding the elections. (Changed to Tuesday after first Monday in November. c. 275—1876.)

Pay of members and officers of the General Assembly.

SEC. 28. *Pay of members and officers of the General Assembly.* The members of the General Assembly for the term of their office shall receive a salary for their services of six hundred dollars each. The salaries of the presiding officers of the two Houses shall be seven hundred dollars each: *Provided,* that in addition to the salaries herein provided for, should an extra session of the General Assembly be called, the members shall receive eight dollars per day each, and the presiding officers of the two Houses ten dollars per day each, for every day of such extra session not exceeding twenty days; and should an extra session continue more than twenty days, the members and officers shall serve thereafter without pay.

Limitations upon power of General Assembly to enact private or special legislation.

SEC. 29. *Limitations upon power of General Assembly to enact private or special legislation.* The General Assembly shall not pass any local, private, or special act or resolution relating to the establishment of courts inferior to the Superior Court; relating to the appointment of justices of the peace; relating to health, sanitation, and the abatement of nuisances; changing the names of cities, towns, and townships; authorizing the laying out, opening, altering, maintaining, or discontinuing of highways,

streets, or alleys; relating to ferries or bridges; relating to non-navigable streams; relating to cemeteries; relating to the pay of jurors; erecting new townships, or changing township lines, or establishing or changing the lines of school districts; remitting fines, penalties, and forfeitures, or refunding moneys legally paid into the public treasury; regulating labor, trade, mining, or manufacturing; extending the time for the assessment or collection of taxes or otherwise relieving any collector of taxes from the due performance of his official duties or his sureties from liability; giving effect to informal wills and deeds; nor shall the General Assembly enact any such local, private, or special act by the partial repeal of a general law, but the General Assembly may at any time repeal local, private, or special laws enacted by it. Any local, private, or special act or resolution passed in violation of the provisions of this section shall be void. The General Assembly shall have power to pass general laws regulating matters set out in this section.

Inviolability of Sinking funds.

SEC. 30. The General Assembly shall not use nor authorize to be used any part of the amount of any sinking fund for any purpose other than the retirement of the bonds for which said sinking fund has been created.

ARTICLE III

EXECUTIVE DEPARTMENT

Officers of the executive department.

SECTION 1. *Officers of the Executive Department; terms of office.* The Executive Department shall consist of a Governor, in whom shall be vested the supreme executive power of the State; 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: *Provided*, that the officers first elected shall assume the duties of their office ten days after the approval of this Constitution by the Congress of the United States, and shall hold their offices four years from and after the first day of January.

Terms of office.

Qualifications of governor and lieutenant-governor.

SEC. 2. *Qualifications of Governor and Lieutenant-Governor.* No person shall be eligible as Governor or Lieutenant-Governor unless he shall have attained the age of thirty years, shall have been a citizen of the United States five years, and shall have been a resident of this State for two years next before the election; nor shall the person elected to either of these two offices be eligible to the same office more than four years in any term of eight years, unless the office shall have been cast upon him as Lieutenant-Governor or President of the Senate.

Returns of election.

SEC. 3. *Returns of election.* The returns of every election for officers of the Executive Department shall be sealed up and transmitted to the seat of government by the returning officer, directed to the Secretary of State. The return shall be canvassed and the result declared in such manner as may be prescribed by law. 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.

Oath ofoffice for governor.

SEC. 4. *Oath of office for Governor.* The Governor, before entering upon the duties of his office, shall, in the presence of the members of both branches of the General Assembly, or before any Justice of the Supreme Court, take an oath or affirmation that he will support the Constitution and laws of the United States, and of the State of North Carolina, and that he will faithfully perform the duties appertaining to the office of Governor, to which he has been elected.

Duties of governor.

SEC. 5. *Duties of Governor.* The Governor shall reside at the seat of government of this State, and he shall, from time to time, give the General Assembly information of the affairs of the State, and recommend to their consideration such measures as he shall deem expedient.

Reprieves, commutations, and pardons.

SEC. 6. *Reprieves, commutations, and pardons.* The Governor shall have power to grant reprieves, commutations, and pardons, after conviction, for all offenses (except in cases of impeachment), upon such conditions as he may think proper, subject to such regulations as may be provided by law relative to the manner of applying for pardons. He shall biennially communicate to the General Assembly each case of reprieve, commutation, or pardon granted, stating the name of each convict, the crime for which he was convicted, the sentence and its date, the date of commutation, pardon, or reprieve, and the reasons therefor.

Annual reports from officers of executive department and of public institutions.

SEC. 7. *Annual reports from officers of Executive Department and of public institutions.* The officers of the Executive Department and of the public institutions of the State shall, at least five days previous to each regular session of the General Assembly, severally report to the Governor, who shall transmit such reports, with his message to the General Assembly; and the Governor may, at any time, require information in writing from the officers in the Executive Department upon any subject relating to the duties of their respective offices, and shall take care that the laws be faithfully executed.

Commander-in-chief.

SEC. 8. *Commander-in-Chief.* The Governor shall be Commander-in-Chief of the militia of the State, except when they shall be called into the service of the United States.

Extra sessions of General Assembly.

SEC. 9. *Extra sessions of General Assembly.* The Governor shall have power, on extraordinary occasions, by and with the

advice of the Council of State, to convene the General Assembly in extra session by his proclamation, stating therein the purpose or purposes for which they are thus convened.

Officers whose appointments are not otherwise provided for.

SEC. 10. *Officers whose appointments are not otherwise provided for.* The Governor shall nominate and, by and with the advice and consent of a majority of the Senators-elect, appoint all officers whose offices are established by this Constitution and whose appointments are not otherwise provided for.

Duties of the lieutenant-governor.

SEC. 11. *Duties of the Lieutenant-Governor.* The Lieutenant-Governor shall be President of the Senate, but shall have no vote unless the Senate be equally divided. He shall, whilst acting as President of the Senate, receive for his services the same pay which shall, for the same period, be allowed to the Speaker of the House of Representatives; and he shall receive no other compensation except when he is acting as Governor.

In case of impeachment of governor, or vacancy caused by death or resignation.

SEC. 12. *In case of impeachment of Governor, or vacancy caused by death or resignation.* In case of the impeachment of the Governor, his failure to qualify, his absence from the State, his inability to discharge the duties of his office, or, in case the office of Governor shall in any wise become vacant, the powers, duties and emoluments of the office shall devolve upon the Lieutenant-Governor until the disability shall cease or a new Governor shall be elected and qualified. In every case in which the Lieutenant-Governor shall be unable to preside over the Senate, the Senators shall elect one of their own number President of their body; and the powers, duties, and emoluments of the office of Governor shall devolve upon him whenever the Lieutenant-Governor shall, for any reason, be prevented from discharging the duties of such office as above provided, and he shall continue as acting Governor until the disabilities are removed, or a new Governor or Lieutenant-Governor shall be elected and qualified. Whenever, during the recess of the General Assembly, it shall become necessary for the President of the Senate to administer the government, the Secretary of State shall convene the Senate, that they may elect such President.

Duties of other executive officers.

SEC. 13. *Duties of other executive officers.* The respective duties of the Secretary of State, Auditor, Treasurer, Superintendent of Public Instruction, and Attorney-General shall be prescribed by law. If the office of any of said officers shall be vacated by death, resignation, or otherwise, it shall be the duty of the Governor to appoint another until the disability be removed or his successor be elected and qualified. Every such vacancy shall be filled by election at the first general election that occurs more than thirty days after the vacancy has taken place, and the person chosen shall hold the office for the remainder of the unexpired term fixed in the first section of this article.

Council of State.

SEC. 14. *Council of State.* The Secretary of State, Auditor, Treasurer, and Superintendent of Public Instruction shall con-

stitute, *ex officio*, the Council of State, who shall advise the Governor in the execution of his office, and three of whom shall constitute a quorum; their advice and proceedings in this capacity shall be entered in a journal, to be kept for this purpose exclusively, and signed by the members present, from any part of which any member may enter his dissent; and such journal shall be placed before the General Assembly when called for by either House. The Attorney-General shall be, *ex officio*, the legal adviser of the Executive Department.

Compensation of executive officers.

SEC. 15. *Compensation of executive officers.* The officers mentioned in this article shall, at stated periods, receive for their services a compensation to be established by law, which shall neither be increased nor diminished during the time for which they shall have been elected, and the said officers shall receive no other emolument or allowance whatever.

Seal of State

SEC. 16. *Seal of State.* There shall be a seal of the State, which shall be kept by the Governor, and used by him, as occasion may require, and shall be called "The Great Seal of the State of North Carolina." All grants and commissions shall be issued in the name and by the authority of the State of North Carolina, sealed with "The Great Seal of the State," and signed by the Governor, and countersigned by the Secretary of State.

Department of Agriculture, Immigration, and Statistics.

SEC. 17. *Department of Agriculture, Immigration, and Statistics.* 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.

Department of Justice.

SEC. 18. The General Assembly is authorized and empowered to create a Department of Justice under the supervision and direction of the Attorney-General, and to enact suitable laws defining the authority of the Attorney-General and other officers and agencies concerning the prosecution of crime and the administration of the criminal laws of the State.

ARTICLE IV

JUDICIAL DEPARTMENT

Abolishes the distinction between actions at law and suits in equity.

SECTION 1. *Abolishes the distinction between actions at law and suits in equity, and feigned issues.* The distinction between actions at law and suits in equity, and the forms of all such actions and suits, shall be abolished; and there shall be in this State but one form of action for the enforcement or protection of private rights or the redress of private wrongs, which shall be denominated a civil action; and every action prosecuted by the people of the State as a party, against a person charged with a public offense, for the punishment of the same, shall be termed a

criminal action. Feigned issues shall also be abolished, and the facts at issue tried by order of court before a jury. Feigned issues abolished.

SEC. 2. *Division of judicial powers.* The judicial power of the State shall be vested in a Court for the Trial of Impeachments, a Supreme Court, Superior Courts, Courts of Justices of the Peace, and such other courts inferior to the Supreme Court as may be established by law. Division of judicial powers.

SEC. 3. *Trial court of impeachment.* The Court for the Trial of Impeachments shall be the Senate. A majority of the members shall be necessary to a quorum, and the judgment shall not extend beyond removal from and disqualification to hold office in this State; but the party shall be liable to indictment and punishment according to law. Trial court of impeachment.

SEC. 4. *Impeachment.* The House of Representatives solely shall have the power of impeaching. No person shall be convicted without the concurrence of two-thirds of the Senators present. When the Governor is impeached, the Chief Justice shall preside. Impeachment.

SEC. 5. *Treason against the State.* Treason against the State shall consist only in levying war against it, or adhering to its enemies, giving them aid and comfort. No person shall be convicted of treason unless on the testimony of two witnesses to the same overt act, or on confession in open court. No conviction of treason or attainder shall work corruption of blood or forfeiture. Treason against the State.

SEC. 6. *Supreme Court.* The Supreme Court shall consist of a Chief Justice and four Associate Justices. The General Assembly may increase the number of Associate Justices to not more than six, when the work of the Court so requires. The Court shall have power to sit in divisions, when in its judgment this is necessary for the proper dispatch of business, and to make rules for the distribution of business between the divisions and for the hearing of cases by the full Court. No decision of any division shall become the judgment of the Court unless concurred in by a majority of all the Justices; and no case involving a construction of the Constitution of the State or of the United States shall be decided except by the Court *en bloc.* All sessions of the Court shall be held in the city of Raleigh. This amendment made to the Constitution of North Carolina shall not have the effect to vacate any office or term of office now existing under the Constitution of the State, and filled or held by virtue of any election or appointment under the said Constitution, and the laws of the State made in pursuance thereof. Supreme Court.

SEC. 7. *Terms of the Supreme Court.* The terms of the Supreme Court shall be held in the city of Raleigh, as now, until otherwise provided by the General Assembly. Terms of the Supreme Court.

SEC. 8. *Jurisdiction of Supreme Court.* The Supreme Court shall have jurisdiction to review, upon appeal, any decision of Jurisdiction of Supreme Court.

the courts below, upon any matter of law or legal inference. And the jurisdiction of said Court over "issues of fact" and "questions of fact" shall be the same exercised by it before the adoption of the Constitution of one thousand eight hundred and sixty-eight, and the Court shall have the power to issue any remedial writs necessary to give it a general supervision and control over the proceedings of the inferior courts.

Claims against the State.

SEC. 9. *Claims against the State.* The Supreme Court shall have original jurisdiction to hear claims against the State, but its decisions shall be merely recommendatory; no process in the nature of execution shall issue thereon; they shall be reported to the next session of the General Assembly for its action.

Judicial districts for Superior Courts.

SEC. 10. *Judicial districts for Superior Courts.* The State shall be divided into nine judicial districts, for each of which a judge shall be chosen; and there shall be held a Superior Court in each county at least twice in each year, to continue for such time in each county as may be prescribed by law. But the General Assembly may reduce or increase the number of districts. (Changed by act of General Assembly to twenty districts.)

Residences of judges, rotation in judicial districts, and special terms.

SEC. 11. *Residences of judges, rotation in judicial districts, and special terms.* Every judge of the Superior Court shall reside in the district for which he is elected. The judges shall preside in the courts of the different districts successively, but no judge shall hold the courts in the same district oftener than once in four years; but in case of the protracted illness of the judge assigned to preside in any district, or of any other unavoidable accident to him, by reason of which he shall be unable to preside, the Governor may require any judge to hold one or more specified terms in said district, in lieu of the judge assigned to hold the courts of the said district; and the General Assembly may by general laws provide for the selection of special or emergency judges to hold the Superior Courts of any county, or district, when the judge assigned thereto, by reason of sickness, disability, or other cause, is unable to attend and hold said court, and when no other judge is available to hold the same. Such special or emergency judges shall have the power and authority of regular judges of the Superior Courts, in the courts which they are so appointed to hold; and the General Assembly shall provide for their reasonable compensation.

Power to provide for special or emergency judges.

Power and authority of emergency judges.

Jurisdiction of courts inferior to Supreme Court.

SEC. 12. *Jurisdiction of courts inferior to Supreme Court.* The General Assembly shall have no power to deprive the Judicial Department of any power or jurisdiction which rightfully pertains to it as a co-ordinate department of the government; but the General Assembly shall allot and distribute that portion of this power and jurisdiction which does not pertain to the Supreme Court among the other courts prescribed in this Constitution or which may be established by law, in such manner as it may deem best; provide also a proper system of appeals; and regulate by

law, when necessary, the methods of proceeding in the exercise of their powers of all the courts below the Supreme Court, so far as the same may be done without conflict with other provisions of this Constitution.

In case of waiver of trial by jury.

SEC. 13. *In case of waiver of trial by jury.* In all issues of fact, joined in any court, the parties may waive the right to have the same determined by a jury; in which case the finding of the judge upon the facts shall have the force and effect of a verdict by a jury.

Special courts in cities.

SEC. 14. *Special courts in cities.* The General Assembly shall provide for the establishment of special courts, for the trial of misdemeanors, in cities and towns, where the same may be necessary.

Clerk of the Supreme Court.

SEC. 15. *Clerk of the Supreme Court.* The clerk of the Supreme Court shall be appointed by the Court, and shall hold his office for eight years.

Election of Superior Court clerk.

SEC. 16. *Election of Superior Court clerk.* A clerk of the Superior Court for each county shall be elected by the qualified voters thereof, at the time and in the manner prescribed by law for the election of members of the General Assembly.

Term of office.

SEC. 17. *Term of office.* Clerks of the Superior Courts shall hold their offices for four years.

Fees, salaries, and emoluments.

SEC. 18. *Fees, salaries, and emoluments.* The General Assembly shall prescribe and regulate the fees, salaries, and emoluments of all officers provided for in this article; but the salaries of the judges shall not be diminished during their continuance in office.

What laws are, and shall be, in force.

SEC. 19. *What laws are, and shall be, in force.* The laws of North Carolina, not repugnant to this Constitution or the Constitution and laws of the United States, shall be in force until lawfully altered.

Disposition of actions at law and suits in equity, pending when this Constitution shall go into effect, etc.

SEC. 20. *Disposition of actions at law and suits in equity, pending when this Constitution shall go into effect, etc.* Actions at law and suits in equity pending when this Constitution shall go into effect shall be transferred to the courts having jurisdiction thereof, without prejudice by reason of the change; and all such actions and suits commenced before, and pending the adoption by the General Assembly of the rules of practice and procedure herein provided for, shall be heard and determined according to the practice now in use, unless otherwise provided for by said rules.

Justices of Supreme Court, election of.

SEC. 21. *Elections, terms of office, etc., of Justices of the Supreme and Judges of the Superior Courts.* The Justices of the Supreme Court shall be elected by the qualified voters of the

Term of office.
Judges of Superior Court, election of.

State, as is provided for the election of members of the General Assembly. They shall hold their offices for eight years. The judges of the Superior Courts, elected at the first election under this amendment, shall be elected in like manner as is provided for Justices of the Supreme Court, and shall hold their offices for eight years. The General Assembly may, from time to time, provide by law that the judges of the Superior Courts, chosen at succeeding elections, instead of being elected by the voters of the whole State, as is herein provided for, shall be elected by the voters of their respective districts.

Transaction of business in the Superior Courts.

SEC. 22. *Transaction of business in the Superior Courts.* The Superior Courts shall be, at all times, open for the transaction of all business within their jurisdiction, except the trial of issues of fact requiring a jury.

Solicitors for each judicial district.

SEC. 23. *Solicitors for each judicial district.* A solicitor shall be elected for each judicial district, by the qualified voters thereof, as is prescribed for members of the General Assembly, who shall hold office for the term of four years, and prosecute on behalf of the State, in all criminal actions in the Superior Courts, and advise the officers of justice in his district.

Sheriffs and coroners.

SEC. 24. *Sheriffs and coroners.* In each county a sheriff and coroner shall be elected by the qualified voters thereof, as is prescribed for members of the General Assembly, and shall hold their offices for four years. In each township there shall be a constable elected in like manner by the voters thereof, who shall hold his office for two years. When there is no coroner in a county, the clerk of the Superior Court for the county may appoint one for special cases. In case of a vacancy existing for any cause in any of the offices created by this section, the commissioners of the county may appoint to such office for the unexpired term.

Vacancies.

SEC. 25. *Vacancies.* All vacancies occurring in the offices provided for by this article of the Constitution shall be filled by the appointments of the Governor, unless otherwise provided for, and the appointees shall hold their places until the next regular election for members of the General Assembly, when elections shall be held to fill such offices. If any person, elected or appointed to any of said offices, shall neglect and fail to qualify, such offices shall be appointed to, held and filled as provided in case of vacancies occurring therein. All incumbents of said offices shall hold until their successors are qualified.

Terms of office of first officers.

SEC. 26. *Terms of office of first officers.* The officers elected at the first election held under this Constitution shall hold their offices for the terms prescribed for them, respectively, next ensuing after the next regular election for members of the General Assembly. But their terms shall begin upon the approval of this Constitution by the Congress of the United States.

Jurisdiction of justices of the peace.

SEC. 27. *Jurisdiction of justices of the peace.* The several justices of the peace shall have jurisdiction, under such regulations as the General Assembly shall prescribe, of civil actions, founded on contract, wherein the sum demanded shall not exceed two hundred dollars, and wherein the title to real estate shall not be in controversy; and of all criminal matters arising within their counties where the punishment cannot exceed a fine of fifty dollars or imprisonment for thirty days. And the General Assembly may give to the justices of the peace jurisdiction of other civil actions wherein the value of the property in controversy does not exceed fifty dollars. When an issue of fact shall be joined before a justice, on demand of either party thereto, he shall cause a jury of six men to be summoned, who shall try the same. The party against whom the judgment shall be rendered in any civil action may appeal to the Superior Court from the same. In all cases of a criminal nature the party against whom the judgment is given may appeal to the Superior Court, where the matter shall be heard anew. In all cases brought before a justice, he shall make a record of the proceedings, and file same with the clerk of the Superior Court for his county.

Vacancies in office of justices.

SEC. 28. *Vacancies in office of justices.* When the office of justice of the peace shall become vacant otherwise than by expiration of the term, and in case of a failure by the voters of any district to elect, the clerk of the Superior Court for the county shall appoint to fill the vacancy for the unexpired term.

Vacancies in office of Superior Court clerk.

SEC. 29. *Vacancies in office of Superior Court clerk.* In case the office of clerk of a Superior Court for a county shall become vacant otherwise than by the expiration of the term, and in case of a failure by the people to elect, the judge of the Superior Court for the county shall appoint to fill the vacancy until an election can be regularly held.

Officers of other courts inferior to Supreme Court.

SEC. 30. *Officers of other courts inferior to Supreme Court.* In case the General Assembly shall establish other courts inferior to the Supreme Court, the presiding officers and clerks thereof shall be elected in such manner as the General Assembly may from time to time prescribe, and they shall hold their offices for a term not exceeding eight years.

Removal of judges of various courts for inability.

SEC. 31. *Removal of judges of the various courts for inability.* Any Judge of the Supreme Court, or of the Superior Courts, and the presiding officers of such courts inferior to the Supreme Court as may be established by law, may be removed from office for mental or physical inability, upon a concurrent resolution of two-thirds of both Houses of the General Assembly. The judge or presiding officer against whom the General Assembly may be about to proceed shall receive notice thereof, accompanied by a copy of the causes alleged for his removal, at least twenty days before the day on which either House of the General Assembly shall act thereon.

Removal of clerks of the various courts for inability.

SEC. 32. *Removal of clerks of the various courts for inability.* Any clerk of the Supreme Court, or of the Superior Courts, or of such courts inferior to the Supreme Court as may be established by law, may be removed from office for mental or physical inability; the clerk of the Supreme Court by the Judges of said Court, the clerks of the Superior Courts by the judge riding the district, and the clerks of such courts inferior to the Supreme Court as may be established by law by the presiding officers of said courts. The clerk against whom proceedings are instituted shall receive notice thereof accompanied by a copy of the causes alleged for his removal, at least ten days before the day appointed to act thereon, and the clerk shall be entitled to an appeal to the next term of the Superior Court, and thence to the Supreme Court, as provided in other cases of appeals.

Amendments not to vacate existing offices.

SEC. 33. *Amendments not to vacate existing offices.* The amendments made to the Constitution of North Carolina by this Convention shall not have the effect to vacate any office or term of office now existing under the Constitution of the State, and filled, or held by virtue of any election or appointment under the said Constitution and the laws of the State made in pursuance thereof.

ARTICLE V

REVENUE AND TAXATION

Capitation tax.

SECTION 1. *Capitation tax; exemptions.* The General Assembly may levy a capitation tax on every male inhabitant of the State over twenty-one and under fifty years of age, which said tax shall not exceed two dollars, and cities and towns may levy a capitation tax which shall not exceed one dollar. No other capitation tax shall be levied. The commissioners of the several counties and of the cities and towns may exempt from the capitation tax any special cases on account of poverty or infirmity.

Exemptions.

Application of proceeds of State and county capitation tax.

SEC. 2. *Application of proceeds of State and county capitation tax.* The proceeds of the State and county capitation tax shall be applied to the purposes of education and the support of the poor, but in no one year shall more than twenty-five per cent thereof be appropriated to the latter purpose.

State taxation.

SEC. 3. *State taxation.* The power of taxation shall be exercised in a just and equitable manner, and shall never be surrendered, suspended, or contracted away. Taxes on property shall be uniform as to each class of property taxed. Taxes shall be levied only for public purposes, and every act levying a tax shall state the object to which it is to be applied. The General Assembly may also tax trades, professions, franchises, and incomes: *Provided*, the rate of tax on income shall not in any case exceed ten per cent (10%), and there shall be allowed the following exemptions, to be deducted from the amount of annual incomes, to wit: for married man with a wife living with him, or to a widow or widower having minor child or children, natural

Taxes uniform as to each class of property taxed.

Exemptions.

or adopted, not less than $2,000; to all other persons not less than $1,000, and there may be allowed other deductions (not including living expenses) so that only net incomes are taxed.

Limitations upon the increase of public debts.

SEC. 4. *Limitations upon the increase of Public debts.* The General Assembly shall have the power to contract debts and to pledge the faith and credit of the State and to authorize counties and municipalities to contract debts and pledge their faith and credit, for the following purposes: To fund or refund a valid existing debt; to borrow in anticipation of the collection of taxes due and payable within the fiscal year to an amount not exceeding fifty per centum of such taxes; to supply a casual deficit; to suppress riots or insurrections, or to repel invasions. For any purpose other than these enumerated the General Assembly shall have no power, during any biennium, to contract new debts on behalf of the State to an amount in excess of two-thirds of the amount by which the State's outstanding indebtedness shall have been reduced during the next preceding biennium, unless the subject be submitted to a vote of the people of the State; and for any purpose other than these enumerated the General Assembly shall have no power to authorize counties or municipalities to contract debts, and counties and municipalities shall not contract debts, during any fiscal year, to an amount exceeding two-thirds of the amount by which the outstanding indebtedness of the particular county or municipality shall have been reduced during the next preceding fiscal year, unless the subject be submitted to a vote of the people of the particular county or municipality. In any election held in the State or in any county or municipality under the provisions of this section, the proposed indebtedness must be approved by a majority of those who shall vote thereon. And the General Assembly shall have no power to give or lend the credit of the State in aid of any person, association, or corporation, except to aid in the completion of such railroads as may be unfinished at the time of the adoption of this Constitution, or in which the State has a direct pecuniary interest, unless the subject be submitted to a direct vote of the people of the State, and be approved by a majority of those who shall vote thereon.

Property exempt from taxation.

SEC. 5. *Property exempt from taxation.* Property belonging to the State or to municipal corporations, shall be exempt from taxation. The General Assembly may exempt cemeteries and property held for educational, scientific, literary, charitable or religious purposes; also wearing apparel, arms for muster, household and kitchen furniture, the mechanical and agricultural implements of mechanics and farmers, libraries, and scientific instruments, or any other personal property, to a value not exceeding three hundred dollars. The General Assembly may exempt from taxation not exceeding one thousand dollars ($1,000.00) in value of property held and used as the place of residence of the owner.

Taxes levied for counties.

SEC. 6. *Taxes levied for counties.* The total of the State and county tax on property shall not exceed fifteen cents on the one hundred dollars value of property, except when the county property tax is levied for a special purpose and with the special approval of the General Assembly, which may be done by special or general act: *Provided,* this limitation shall not apply to taxes levied for the maintenance of public schools of the State for the term required by article nine, section three, of the Constitution: *Provided further,* the State tax shall not exceed five cents on the one hundred dollars value of property.

Acts levying taxes shall state objects, etc.

SEC. 7. *Acts levying taxes shall state objects, etc.* Every act of the General Assembly levying a tax shall state the special object to which it is to be applied, and it shall be applied to no other purpose.

ARTICLE VI

SUFFRAGE AND ELIGIBILITY TO OFFICE

Who may vote.

SECTION 1. *Who may vote.* Every male person born in the United States, and every male person who has been naturalized, twenty-one years of age, and possessing the qualifications set out in this article, shall be entitled to vote at any election by the people of the State, except as herein otherwise provided. (The effect of the 19th Amendment to the United States Constitution was to strike out the word *male.*)

Qualifications of voters.

SEC. 2. *Qualifications of voters.* He shall reside in the State of North Carolina for one year, and in the precinct, ward, or other election district in which he offers to vote four months next preceding election: *Provided,* that removal from one precinct, ward, 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. No person who has been convicted, or who has confessed his guilt in open court upon indictment, of any crime the punishment of which now is, or may hereafter be, imprisonment in the State's Prison, shall be permitted to vote, unless the said person shall be first restored to citizenship in the manner prescribed by law.

Voters to be registered.

General Assembly to provide registration laws.

SEC. 3. *Voters to be registered.* Every person offering to vote shall be at the time a legally registered voter as herein prescribed and in the manner hereafter provided by law, and the General Assembly of North Carolina shall enact general registration laws to carry into effect the provisions of this article.

Qualification for registration.

SEC. 4. *Qualification for registration.* Every person presenting himself for registration shall be able to read and write any section of the Constitution in the English language. But no male person who was, on January 1, 1867, or at any time prior thereto, entitled to vote under the laws of any State in the United States

wherein he then resided, and no lineal descendant of any 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 qualifications herein prescribed: *Provided*, he shall have registered in accordance with the terms of this section prior to December 1, 1908. The General Assembly shall provide for the registration of all persons entitled to vote without the educational qualifications herein prescribed, and shall, on or before November 1, 1908, provide for the making of a permanent record of such registration; and all persons so registered shall forever thereafter have the right to vote in all elections by the people of this State, unless disqualified under section 2 of this article.

Registration of persons entitled to vote without educational qualifications.

Permanent record.

SEC. 5. *Indivisible plan; legislative intent.* That this amendment to the Constitution is presented and adopted as one indivisible plan for the regulation of the suffrage, with the intent and purpose to so connect the different parts, and to make them so dependent upon each other that the whole shall stand or fall together.

Amendment indivisible.

SEC. 6. *Elections by people and General Assembly.* All elections by the people shall be by ballot, and all elections by the General Assembly shall be *viva voce*.

Elections by people and General Assembly.

SEC. 7. *Eligibility to office; official oath.* Every voter in North Carolina, except as in this article disqualified, shall be eligible to office, but before entering upon the duties of the office he shall take and subscribe the following oath:

Eligibility to office; official oath.

"I, ..., do solemnly swear (or affirm) that I will support and maintain the Constitution and laws of the United States, and the Constitution and laws of North Carolina not inconsistent therewith, and that I will faithfully discharge the duties of my office as ..... So help me, God."

SEC. 8. *Disqualification for office.* The following classes of persons shall be disqualified for office: *First*, all persons who shall deny the being of Almighty God. *Second*, all persons who shall have been convicted or confessed their guilt on indictment pending, and whether sentenced or not, or under judgment suspended, of any treason or felony, or of any other crime for which the punishment may be imprisonment in the penitentiary, since becoming citizens of the United States, or of corruption or malpractice in office, unless such person shall be restored to the rights of citizenship in a manner prescribed by law.

Disqualification for office.

SEC. 9. *When this chapter operative.* That this amendment to the Constitution shall go into effect on the first day of July, nineteen hundred and two, if a majority of votes cast at the next general election shall be cast in favor of this suffrage amendment.

When this chapter operative.

ARTICLE VII

MUNICIPAL CORPORATIONS

County officers.

SECTION 1. *County officers.* In each county there shall be elected biennially by the qualified voters thereof, as provided for the election of members of the General Assembly, the following officers: A treasurer, register of deeds, surveyor, and five commissioners.

Duty of county commissioners.

SEC. 2. *Duty of county commissioners.* It shall be the duty of the commissioners to exercise general supervision and control of the penal and charitable institutions, schools, roads, bridges, levying of taxes, and finances of the county, as may be prescribed by law. The register of deeds shall be *ex officio* clerk of the board of commissioners.

Counties to be divided into districts.

SEC. 3. *Counties to be divided into districts.* It shall be the duty of the commissioners first elected in each county to divide the same into convenient districts, to determine the boundaries and prescribe the name of the said districts, and to report the same to the General Assembly before the first day of January, 1869.

Townships have corporate powers.

SEC. 4. *Townships have corporate powers.* Upon the approval of the reports provided for in the foregoing section, by the General Assembly, the said districts shall have corporate powers for the necessary purposes of local government, and shall be known as townships.

Officers of townships.

SEC. 5. *Officers of townships.* In each township there shall be biennially elected, by the qualified voters thereof, a clerk and two justices of the peace, who shall constitute a board of trustees, and shall, under the supervision of the county commissioners, have control of the taxes and finances, roads and bridges of the townships, as may be prescribed by law. The General Assembly may provide for the election of a larger number of justices of the peace in cities and towns, and in those townships in which cities and towns are situated. In every township there shall also be biennially elected a school committee, consisting of three persons, whose duties shall be prescribed by law. (Amended by c. 141, 1877.)

Trustees shall assess property.

SEC. 6. *Trustees shall assess property.* The township board of trustees shall assess the taxable property of their townships and make returns to the county commissioners for revision, as may be prescribed by law. The clerk shall be, *ex officio*, treasurer of the township.

No debt or loan except by a majority of voters.

SEC. 7. *No debt or loan except by a majority of voters.* No county, city, town, or other municipal corporation shall contract any debt, pledge its faith or loan its credit, nor shall any tax be levied or collected by any officers of the same except for the neces-

sary expenses thereof, unless by a vote of the majority of the qualified voters therein.

Drawing of money.

SEC. 8. *No money drawn except by law.* No money shall be drawn from any county or township treasury except by authority of law.

When officers enter on duty.

SEC. 9. *When officers enter on duty.* The county officers first elected under the provisions of this article shall enter upon their duties ten days after the approval of this Constitution by the Congress of the United States.

Governor to appoint justices.

SEC. 10. *Governor to appoint justices.* The Governor shall appoint a sufficient number of justices of the peace in each county, who shall hold their places until sections four, five, and six of this article shall have been carried into effect.

Charters to remain in force until legally changed.

SEC. 11. *Charters to remain in force until legally changed.* All charters, ordinances, and provisions relating to municipal corporations shall remain in force until legally changed, unless inconsistent with the provisions of this Constitution.

Debts in aid of the rebellion not to be paid.

SEC. 12. *Debts in aid of the rebellion not to be paid.* No county, city, town, or other municipal corporation shall assume to pay, nor shall any tax be levied or collected for the payment of any debt, or the interest upon any debt, contracted directly or indirectly in aid of or support of the rebellion.

Powers of General Assembly over municipal corporations.

SEC. 13. *Powers of General Assembly over municipal corporations.* The General Assembly shall have full power by statute to modify, change, or abrogate any and all of the provisions of this article, and substitute others in their place, except sections seven, nine and thirteen. (Recent amendment repealed old section 9 and renumbered sections 10-14.) (Under this authority several amendments have been made to this article.)

ARTICLE VIII

CORPORATIONS OTHER THAN MUNICIPAL

Restrictions of legislative powers as to corporations.

SECTION 1. *Corporations under general laws.* No corporation shall be created, nor shall its charter be extended, altered, or amended by special act, except corporations for charitable, educational, penal, or reformatory purposes that are to be and remain under the patronage and control of the State; but the General Assembly shall provide by general laws for the chartering and organization of all corporations, and for amending, extending, and forfeiture of all charters, except those above permitted by special act. All such general laws and special acts may be altered from time to time or repealed; and the General Assembly may at any time by special act repeal the charter of any corporation.

Organization of corporations.

Debts of corporations, how secured.

SEC. 2. *Debts of corporations, how secured.* Dues from corporations shall be secured by such individual liabilities of the corporations, and other means, as may be prescribed by law.

What corporations shall include.

SEC. 3. *What corporations shall include.* The term "Corporation" as used in this article shall be construed to include all associations and joint-stock companies having any of the powers and privileges of corporations not possessed by individuals or partnerships. And all corporations shall have the right to sue, and shall be subject to be sued, in all courts in like cases as natural persons.

General laws for organization and government of municipalities.

SEC. 4. *Legislature to provide for organizing cities, towns, etc.* It shall be the duty of the Legislature to provide by general laws for the organization of cities, towns, and incorporated villages, and to restrict their power of taxation, assessment, borrowing money, contracting debts, and loaning their credit, so as to prevent abuses in assessment and in contracting debts by such municipal corporations.

ARTICLE IX

EDUCATION

Education shall be encouraged.

SECTION 1. *Education shall be encouraged.* Religion, morality, and knowledge being necessary to good government and the happiness of mankind, schools and the means of education shall forever be encouraged.

General Assembly shall provide for schools.

SEC. 2. *General Assembly shall provide for schools; separation of the races.* The General Assembly, at its first session under this Constitution, shall provide by taxation and otherwise for a general and uniform system of public schools, wherein tuition shall be free of charge to all the children of the State between the ages of six and twenty-one years. And 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.

Separation of races.

Counties to be divided into districts.

SEC. 3. *Counties to be divided into districts.* Each county of the State shall be divided into a convenient number of districts, in which one or more public schools shall be maintained at least six months in every year; and if the commissioners of any county shall fail to comply with the aforesaid requirements of this section they shall be liable to indictment.

What property shall be devoted to educational purposes.

SEC. 4. *What property devoted to educational purposes.* The proceeds of all lands that have been or hereafter may 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 other property now belonging to any State fund for purposes of education, also the net proceeds of all sales of the swamp lands belonging to the State, and all other grants, gifts, or devises that have been or hereafter may be made to the State,

and not otherwise appropriated by the 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 by law set apart for that purpose, shall be faithfully appropriated for establishing and maintaining in this State a system of free public schools, and for no other uses or purposes whatsoever.

County school fund.

SEC. 5. *County school fund; proviso.* All moneys, stocks, bonds, and other property belonging to a county school fund; also the net proceeds from the sale 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 an equivalent for exemption from military duty 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 of this State: *Provided*, that the amount collected in each county shall be annually reported to the Superintendent of Public Instruction.

Proviso.

Election of trustees, and provisions for maintenance, of the University.

SEC. 6. *Election of trustees, and provisions for maintenance, of the University.* 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 any wise granted to or conferred upon the trustees of said 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 said University.

Benefits of the University.

SEC. 7. *Benefits of the 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 dividends, or distributive shares of the estates of deceased persons, shall be appropriated to the use of the University.

Board of Education.

SEC. 8. *Board of Education.* The Governor, Lieutenant-Governor, Secretary of State, Treasurer, Auditor, Superintendent of Public Instruction, and Attorney-General shall constitute a State Board of Education.

President and Secretary.

SEC. 9. *President and secretary.* The Governor shall be president and the Superintendent of Public Instruction shall be secretary of the Board of Education.

Powers of the board.

SEC. 10. *Powers of the board.* The 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 in relation to free public schools and the educational fund of the

State; but all acts, rules, and regulations of said board may be altered, amended, or repealed by the General Assembly, and when so altered, amended, or repealed they shall not be re-enacted by the board.

First session of the board.

SEC. 11. *First session of the board.* The first session of the Board of Education shall be held at the Capital of the State within fifteen days after the organization of the State Government under this Constitution; the time of future meetings may be determined by the board.

Quorum.

SEC. 12. *Quorum.* A majority of the board shall constitute a quorum for the transaction of business.

Expenses.

SEC. 13. *Expenses.* The contingent expenses of the board shall be provided by the General Assembly.

Agricultural department.

SEC. 14. *Agricultural department.* As soon as practicable after the adoption of this Constitution the General Assembly shall establish and maintain, in connection with the University, a department of agriculture, of mechanics, of mining, and of normal instruction.

Children must attend school.

SEC. 15. *Children must attend school.* The General Assembly is hereby 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.

ARTICLE X

HOMESTEADS AND EXEMPTIONS

Exemptions of personal property.

SECTION 1. *Exemptions of personal property.* The personal property of any resident of this State, to the value of five hundred dollars, to be selected by such resident, shall be and is hereby exempted from sale under execution or other final process of any court issued for the collection of any debt.

Homestead.

SEC. 2. *Homestead.* Every homestead, and the dwellings and buildings used therewith, not exceeding in value one thousand dollars, to be selected by the owner thereof, or in lieu thereof, at the option of the owner, any lot in a city, town, or village with the dwellings and buildings used thereon, owned and occupied by any resident of this State, and not exceeding the value of one thousand dollars, shall be exempt from sale under execution or other final process obtained on any debt. But no property shall be exempt from sale for taxes or for the payment of obligations contracted for the purchase of said premises.

Homestead exemption from debt.

SEC. 3. *Homestead exemption from debt.* The homestead, after the death of the owner thereof, shall be exempt from the payment of any debt during the minority of his children, or any of them.

Laborer's lien.

SEC. 4. *Laborer's lien.* The provisions of sections one and two of this article shall not be so construed as to prevent a laborer's lien for work done and performed for the person claiming such exemption, or a mechanic's lien for work done on the premises.

Benefit of widow.

SEC. 5. *Benefit of widow.* If the owner of a homestead dies, leaving a widow but no children, the same shall be exempt from the debts of her husband, and the rents and profits thereof shall inure to her benefit during her widowhood, unless she be the owner of a homestead in her own right.

Property of married women secured to them.

SEC. 6. *Property of married women secured to them.* The real and personal property of any female in this State acquired before marriage, and all property, real and personal, to which she may, after marriage, become in any manner entitled, shall be and remain the sole and separate estate and property of such female, and shall not be liable for any debts, obligations, or engagements of her husband, and may be devised, and bequeathed, and, with the written assent of her husband, conveyed by her as if she were unmarried.

Husband may insure his life for the benefit of wife and children.

SEC. 7. *Husband may insure his life for the 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. And the policy shall not be subject to claims of creditors of the insured during the life of the insured, if the insurance issued is for the sole use and benefit of the wife and/or children.

How deed for homestead may be made.

SEC. 8. *How deed for homestead may be made.* Nothing contained in the foregoing sections of this article shall operate to prevent the owner of a homestead from disposing of the same by deed; but no deed made by the owner of a homestead shall be valid without the voluntary signature and assent of his wife, signified on her private examination according to law.

ARTICLE XI

PUNISHMENTS, PENAL INSTITUTIONS, AND PUBLIC CHARITIES

Punishments.

SECTION 1. *Punishments; convict labor; proviso.* The following punishments only shall be known to the laws of this State, viz: death, imprisonment with or without hard labor, fines, removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit under this State. The foregoing provision for imprisonment with hard labor shall be construed to authorize the employment of such convict labor on public works or highways, or other labor for public benefit, and the farming out thereof, where and in such manner as may be provided by law; but no convict shall be farmed out who has been sentenced

Convict labor.

on a charge of murder, manslaughter, rape, attempt to commit rape, or arson: *Provided*, that no convict whose labor may be farmed out shall be punished for any failure of duty as a laborer, except by a responsible officer of the State; but the convicts so farmed out shall be at all times under the supervision and control, as to their government and discipline, of the penitentiary board or some officer of this State.

Proviso.

Death punishment.

SEC. 2. *Death punishment.* The object of punishment being not only to satisfy justice, but also to reform the offender, and thus prevent crime, murder, arson, burglary, and rape, and these only, may be punishable with death, if the General Assembly shall so enact.

Penitentiary.

SEC. 3. *Penitentiary.* The General Assembly shall, at its first meeting, make provision for the erection and conduct of a State's Prison or penitentiary at some central and accessible point within the State.

Houses of correction.

SEC. 4. *Houses of correction.* The General Assembly may provide for the erection of houses of correction, where vagrants and persons guilty of misdemeanors shall be restrained and usefully employed.

Houses of refuge.

SEC. 5. *Houses of refuge.* A house or houses of refuge may be established whenever the public interests may require it, for the correction and instruction of other classes of offenders.

The sexes to be separated.

SEC. 6. *The sexes to be separated.* It shall be required, by competent legislation, that the structure and superintendence of penal institutions of the State, county jails, and city police prisons secure the health and comfort of the prisoners, and that male and female prisoners be never confined in the same room or cell.

Provision for the poor and orphans.

SEC. 7. *Provision for the poor and orphans.* Beneficent provisions for the poor, the unfortunate, and orphan being one of the first duties of a civilized and Christian State, the General Assembly shall, at its first session, appoint and define the duties of a Board of Public Charities, to whom shall be entrusted the supervision of all charitable and penal State institutions, and who shall annually report to the Governor upon their condition, with suggestions for their improvement.

Orphan houses.

SEC. 8. *Orphan houses.* There shall also, as soon as practicable, be measures devised by the State for the establishment of one or more orphan houses, where destitute orphans may be cared for, educated, and taught some business or trade.

Inebriates and idiots.

SEC. 9. *Inebriates and idiots.* It shall be the duty of the Legislature, as soon as practicable, to devise means for the education of idiots and inebriates.

Deaf-mutes, blind, and insane.

SEC. 10. *Deaf-mutes, blind, and insane.* The General Assembly may provide that the indigent deaf-mute, blind, and insane of the State shall be cared for at the charge of the State.

SEC. 11. *Self-supporting.* It shall be steadily kept in view by the Legislature and the Board of Public Charities that all penal and charitable institutions should be made as nearly self-supporting as is consistent with the purposes of their creation. Self-supporting.

ARTICLE XII

MILITIA

SECTION 1. *Who are liable to militia duty.* All able-bodied male citizens of the State of North Carolina, between the ages of twenty-one and forty 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. Who are liable to militia duty. Proviso.

SEC. 2. *Organizing, etc.* The General Assembly shall provide for the organizing, arming, equipping, and discipline of the militia, and for paying the same, when called into active service. Organizing, etc.

SEC. 3. *Governor commander-in-chief.* The Governor shall be commander-in-chief, and shall have power to call out the militia to execute the law, suppress riots or insurrections, and to repel invasion. Governor commander-in-chief.

SEC. 4. *Exemptions.* The General Assembly shall have power to make such exemptions as may be deemed necessary, and to enact laws that may be expedient for the government of the militia. Exemptions.

ARTICLE XIII

AMENDMENTS

SECTION 1. *Convention, how called.* No convention of the people of this State shall ever be called by the General Assembly, unless by the concurrence of two-thirds of all of the members of each House of the General Assembly, and except the proposition, Convention or No Convention, be first submitted to the qualified voters of the whole State, at the next general election, in a manner to be prescribed by law. And should a majority of the votes cast be in favor of said convention, it shall assemble on such day as may be prescribed by the General Assembly. Convention, how called.

SEC. 2. *How the Constitution may be altered.* No part of the Constitution of this State shall be altered unless a bill to alter the same shall have been agreed to by three-fifths of each House of the General Assembly. And the amendment or amendments so agreed to shall be submitted at the next general election to the qualified voters of the whole State, in such manner as may be prescribed by law. And in the event of their adoption by a majority of the votes cast, such amendment or amendments shall become a part of the Constitution of this State. How the Constitution may be altered.

ARTICLE XIV

MISCELLANEOUS

Indictments.

SECTION 1. *Indictments.* All indictments which shall have been found, or may hereafter be found, for any crime or offense committed before this Constitution takes effect, may be proceeded upon in the proper courts, but no punishment shall be inflicted which is forbidden by this Constitution.

Penalty for fighting duel.

SEC. 2. *Penalty for fighting duel.* No person who shall hereafter fight a duel, or assist in the same as a second, or send, accept, or knowingly carry a challenge therefor, or agree to go out of the State to fight a duel, shall hold any office in this State.

Drawing money.

SEC. 3. *Drawing money.* No money shall be drawn from the Treasury but in consequence of appropriations made by law; and an accurate account of the receipts and expenditures of the public money shall be annually published.

Mechanic's lien.

SEC. 4. *Mechanic's lien.* The General Assembly shall provide, by proper legislation, for giving to mechanics and laborers an adequate lien on the subject-matter of their labor.

Governor to make appointments.

SEC. 5. *Governor to make appointments.* In the absence of any contrary provision, all officers of this State, whether heretofore elected or appointed by the Governor, shall hold their positions only until other appointments are made by the Governor, or, if the officers are elective, until their successors shall have been chosen and duly qualified according to the provisions of this Constitution.

Seat of government.

SEC. 6. *Seat of government.* The seat of government in this State shall remain at the city of Raleigh.

Holding office.

SEC. 7. *Holding office.* No person who shall hold any office or place of trust or profit under the United States, or any department thereof, or under this State, or under any other state or government, shall hold or exercise any other office or place of trust or profit under the authority of this State, or be eligible to a seat in either House of the General Assembly: *Provided*, that nothing herein contained shall extend to officers in the militia, justices of the peace, commissioners of public charities, or commissioners for special purposes.

Proviso.

Intermarriage of whites and negroes prohibited.

SEC. 8. *Intermarriage of white and negroes prohibited.* All marriages between a white person and a negro, or between a white person and a person of negro descent to the third generation, inclusive, are hereby forever prohibited.

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PUBLIC LAWS

OF THE

STATE OF NORTH CAROLINA

EXTRA SESSION, 1938
REGULAR SESSION, 1939

PUBLIC LAWS
OF THE
STATE OF NORTH CAROLINA

Extra Session 1938

H. B. 2 **CHAPTER 1**

AN ACT TO AUTHORIZE THE ISSUANCE OF BONDS AND NOTES OF THE STATE FOR PERMANENT IMPROVEMENTS OF STATE INSTITUTIONS, DEPARTMENTS AND AGENCIES AND CONSTRUCTION OF BUILDINGS AND PERMANENT IMPROVEMENTS FOR THE STATE.

The General Assembly of North Carolina do enact:

SECTION 1. That this Act shall be known as the Special Session Bond Act of one thousand nine hundred and thirty-eight. Title.

SEC. 2. That for the purpose of constructing buildings and other permanent improvements, and acquiring and installing equipment, and acquiring sites therefor, if necessary, at the educational, charitable, and correctional institutions and departments and agencies of the State, hereinafter mentioned, the State Treasurer is hereby authorized and directed, by and with the consent of the Governor and Council of State, to issue and sell, at one time or from time to time, four million, six hundred and twenty thousand dollars ($4,620,000.00) bonds of the State. $4,620,000 of State bonds authorized for permanent improvement of state institutions.

SEC. 3. Said bonds shall bear such date or dates and such rate or rates of interest, not exceeding four per centum (4%) per annum, payable semi-annually, and shall mature at such time or times, not exceeding thirty (30) years from their date or respective dates, as may be fixed by the Governor and Council of State. Dates and rates of interest. Maturity dates.

SEC. 4. Said bonds shall carry interest coupons which shall bear the signature of the State Treasurer, or a fascimile thereof, and said bonds shall be subject to registration and be signed and sealed as is now or may hereafter be provided by law for State Bonds, and the form and denomination thereof shall be such as the State Treasurer may determine in conformity with this Act. Interest coupons. Registration. Form and denomination.

SEC. 5. Subject to determination by the Governor and Council of State as to the manner in which said bonds shall be offered for sale, whether by publishing notices in certain newspapers and Sale of bonds.

financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell said bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest.

Minimum price.

Proceeds placed in "Permanent Improvement Fund."

SEC. 6. The proceeds of said bonds and of the bond anticipation notes herein authorized (except the proceeds of bonds the issuance of which has been anticipated by such bond anticipation notes) shall be placed by the State Treasurer in a special fund to be designated "Permanent Improvement Fund one thousand nine hundred thirty-eight" and be disbursed only for the purposes provided in this Act upon warrants drawn by the State Auditor, which warrants shall not be drawn for any State Institution, Department or Agency until a requisition has been approved by the Director of the Budget, and which requisition shall be approved only after full compliance with the Executive Budget Act, Chapter one hundred of the Public Laws of one thousand nine hundred and twenty-nine. Any officer of the State or executive head of any institution, or any director, trustee, or commissioner in any State institution, department or agency to which an appropriation is made under the provisions of this Act who votes for or aids in spending more money for any improvement for his institution, department or agency than is appropriated therefor, may be removed from office by the Governor. Any additional moneys which may be received by means of a grant or grants from the United States of America or any agency or department thereof to aid in financing the cost of any of the improvements herein referred to, may be placed by the State Treasurer in the same fund or in a separate fund and, to the extent permitted by the terms of such grant or grants, shall be disbursed in the same manner and for the purposes mentioned in this Act.

Disbursement.

Penalty for expenditure of sums exceeding appropriations.

Custody and disbursement of supplemental grants.

SEC. 7. The proceeds of such bonds and bond anticipation notes shall be disbursed as herein provided, in the following amounts and for the following purposes: For the permanent improvement, enlargement and equipment of the following institutions, departments and agencies and buildings of the State, and acquiring sites therefor:

Specific appropriations.

EDUCATIONAL INSTITUTIONS

Educational institutions.

UNIVERSITY OF NORTH CAROLINA, Chapel Hill	$ 234,850
For the following specific purposes:	
Renovation of and addition to old Medical Building	$ 182,000
Equipment old Medical Building	20,000
Equipment new Medical Building	75,000
Renovation of Alumni Building	100,000
Renovation of Bynum Building	25,000

University of North Carolina, Chapel Hill.

Renovation of Gerrard Building	25,000		
Total Purposes	427,000		
Less: P. W. A. grant	192,150		
NORTH CAROLINA STATE COLLEGE OF AGRICULTURE AND ENGINEERING OF THE UNIVERSITY OF NORTH CAROLINA, Raleigh		$ 212,300	N. C. State College of Agriculture and Engineering, Raleigh.
For the following specific purposes:			
Animal husbandry building, dairy plant and laboratories	50,000		
Equipment for Chemistry Building	30,000		
Textile Building	250,000		
Less: Appropriation available under Chapter 296 of 1937	45,000	205,000	
Equipment for Textile Building and reinstallation of present textile equipment	45,000		
Renovation of old Textile Building for Vocational Shop work	50,000		
Vocational Shop equipment	6,000		
Total Purposes	386,000		
Less: P. W. A. grant	173,700		
WOMAN'S COLLEGE OF THE UNIVERSITY OF NORTH CAROLINA, Greensboro		$ 178,750	Woman's College of the University of North Carolina, Greensboro.
For the following specific purposes:			
General Science Building	270,000		
General Science equipment	30,000		
Renovation of McIver Building for general classroom purposes	20,000		
General classroom equipment for McIver Building	5,000		
Total Purposes	325,000		
Less: P. W. A. grant	146,250		
EAST CAROLINA TEACHERS COLLEGE, Greenville		$ 183,700	Eastern Carolina Teachers College, Greenville.
For the following specific purposes:			
General classroom building	$ 300,000		
General classroom equipment	25,000		
Garage	3,000		
Additions to Laundry	6,000		
Total Purposes	$ 334,000		
Less: P. W. A. grant	150,300		

Negro Agricultural and Technical College, Greensboro.	NEGRO AGRICULTURAL AND TECHNICAL COLLEGE, Greensboro		$ 130,350
	For the following specific purposes:		
	Vocational Trades building	109,000	
	Vocational Trades equipment	18,000	
	Auditorium	100,000	
	Equipment for Auditorium	10,000	
	Total Purposes	237,000	
	Less: P. W. A. grant	106,650	
Western Carolina Teachers College, Cullowhee.	WESTERN CAROLINA TEACHERS COLLEGE, Cullowhee		$ 223,050
	For the following specific purposes:		
	Completing Physical Education Building	23,000	
	Physical education equipment	7,000	
	Dormitory for men (capacity 160)	123,000	
	Dormitory equipment	7,000	
	Student Union building	30,000	
	Equipment for Student Union	6,000	
	Remodeling old Training School building for general classroom use	24,000	
	General classroom equipment	6,000	
	Auditorium (capacity 900)	68,000	
	Equipment for Auditorium	7,000	
	Infirmary	30,000	
	Equipment for Infirmary	5,000	
	Extension of water system	25,000	
	Renovation and enlarging heating plant	20,000	
	Total Purposes	381,000	
	Less: P. W. A. grant	157,950	
Appalachian State Teachers College, Boone.	APPALACHIAN STATE TEACHERS COLLEGE, Boone		$ 92,675
	For the following specific purposes:		
	General Science building	117,600	
	General Science equipment	22,400	
	Equipment for boys' dormitory	5,600	
	Equipment for Administration Building	4,400	
	Equipment for High School	14,300	
	Equipment for Elementary School	4,200	
	Total Purposes	168,500	
	Less: P. W. A. grant	75,825	
Cherokee Indian Normal School, Pembroke.	CHEROKEE INDIAN NORMAL SCHOOL, Pembroke		$ 24,695
	For the following specific purposes:		

Gymnasium	36,500		
Gymnasium equipment	3,800		
Filter plant and water mains	4,600		
Total Purposes	44,900		
Less: P. W. A. grant	20,205		
WINSTON-SALEM TEACHERS COLLEGE, Winston-Salem		$ 118,305	Winston-Salem Teachers College.
For the following specific purposes:			
Library and Administration Building	104,100		
Equipment for Library and Administration Building	26,000		
General Science Building	65,000		
General Science equipment	20,000		
Total Purposes	215,100		
Less: P. W. A. grant	96,795		
ELIZABETH CITY STATE NORMAL SCHOOL, Elizabeth City		$ 47,850	Elizabeth City State Normal School.
For the following specific purposes:			
Dormitory for boys (capacity 150)	50,000		
Equipment for dormitory	10,000		
Addition to Classroom Building	22,000		
Classroom equipment	5,000		
Total Purposes	87,000		
Less: P. W. A. grant	39,150		
FAYETTEVILLE STATE NORMAL SCHOOL, Fayetteville		$ 86,240	Fayetteville State Normal School.
For the following specific purposes:			
Dormitory for men (capacity 90)	74,000		
Equipment for dormitory	6,000		
General classroom and Science Building	60,000		
General classroom and science equipment	10,000		
Repairs to dining hall	3,300		
Repairs to girls' dormitories	3,500		
Total Purposes	156,800		
Less: P. W. A. grant	70,560		
NORTH CAROLINA COLLEGE FOR NEGROES, Durham		$ 126,500	North Carolina College for Negroes, Durham.
For the following specific purposes:			
General Science Building	130,000		

General science equipment	10,000	
Laundry Building	15,000	
Laundry equipment	5,000	
Home Economics Building	45,000	
Home economics equipment	5,000	
Gymnasium	20,000	
Total Purposes	230,000	
Less: P. W. A. grant	103,500	

North Carolina School for the Deaf, Morganton.

NORTH CAROLINA SCHOOL FOR THE DEAF, Morganton		$ 49,645
For the following specific purposes:		
Coal storage and heating equipment	10,500	
Calf and horse barns	21,000	
Switchboard	4,725	
Electric lines	7,900	
Home Economics Building	6,850	
Repairs to Superintendent's residence	3,675	
Completing basement Main Building	20,000	
Rebuilding school building destroyed by fire	11,750	
Total Purposes	86,400	
Less: P. W. A. grant	36,755	

State School for the Blind and Deaf, Raleigh.

STATE SCHOOL FOR THE BLIND AND THE DEAF, Raleigh		$ 30,800
For the following specific purposes:		
Sewage filter plant (Colored department)	21,000	
Dairy Barn and well (Colored department)	31,000	
Dairy equipment (Colored department)	4,000	
Total Purposes	56,000	
Less: P. W. A. grant	25,200	

Charitable and Correctional Institutions.

CHARITABLE AND CORRECTIONAL INSTITUTIONS

State Hospital at Raleigh.

STATE HOSPITAL AT RALEIGH, Raleigh		$ 704,275
For the following specific purposes:		
Fireproofing East and South wings of main building	164,200	
Fireproofing Center building	105,200	
Replacing Erwin building	110,000	
Replacing epileptic building for men	123,300	
Replacing epileptic building for women	123,300	
Replacing Adams building	123,300	

Replacing part of infirmary	23,000	
Replacing tubercular building for men	46,000	
Replacing tubercular building for women	46,000	
Building for women	143,620	
Equipment for building for women	3,000	
Addition to criminal insane building	59,880	
Equipment for criminal insane building	1,800	
Additions to nurses home	39,200	
Equipment for nurses home	1,500	
Building for attendants	121,900	
Equipment for attendants' building	3,300	
Storeroom and cold storage	37,000	
Remodeling present storeroom for sewing room	5,000	
Total Purposes	1,280,500	
Less: P. W. A. grant	576,225	

STATE HOSPITAL AT MORGANTON,

Morganton		$ 735,075	State Hospital at Morganton.
For the following specific purposes:			
Fireproofing center building	747,300		
Fireproofing Harper building	143,380		
Fireproofing ward no. 27	42,525		
Fireproofing Scroggs building	40,200		
Fireproofing dining room no. 2	23,900		
Fireproofing Yates building	36,645		
Fireproofing old laundry for patients use	57,525		
Replacing tubercular ward for men and women	91,875		
Building porches on patients buildings	35,000		
Superintendent's home	15,750		
Laundry and equipment	77,900		
Chlorinating equipment	2,500		
Booster pump for water system	2,000		
Elevated tank (capacity 250,000 gal)	20,000		
Total Purposes	1,336,500		
Less: P. W. A. grant	601,425		

STATE HOSPITAL AT GOLDSBORO,

Goldsboro		$ 535,500	State Hospital at Goldsboro.
For the following specific purposes:			
Replacing main building	264,000		
Replacing buildings for female patients	80,000		
Replacing buildings for male patients	220,900		
Replacing buildings for epileptic patients	220,900		
Renovation power plant and steam lines	38,600		
Superintendent's residence	13,120		

	Staff house	59,750	
	Six cottages for white employes	27,055	
	Six cottages for negro employes	12,000	
	Laundry equipment	9,450	
	Kitchen equipment	2,625	
	Renovating water system	17,500	
	Total Purposes	965,900	
	Less: P. W. A. grant	430,400	
Caswell Training School, Kinston.	CASWELL TRAINING SCHOOL, Kinston		$ 55,810
	For the following specific purposes:		
	Renovating buildings	48,000	
	Dairy barns	25,000	
	Fertilizer house	1,000	
	Gas storage house	700	
	Silo	1,000	
	Potato house	3,500	
	Building and equipment for problem children	15,000	
	Laundry equipment	4,000	
	Total Purposes	98,200	
	Less: P. W. A. grant	42,390	
North Carolina Orthopedic Hospital, Gastonia.	NORTH CAROLINA ORTHOPEDIC HOSPITAL, Gastonia		$ 31,990
	For the following specific purposes:		
	Assembly hall and equipment	25,000	
	Addition to dining room	3,500	
	Cold storage improvements	3,700	
	Equipment	11,500	
	Improvements to heating plant	5,050	
	Total Purposes	48,750	
	Less: P. W. A. grant	16,760	
North Carolina Sanatorium.	NORTH CAROLINA SANATORIUM, Sanatorium		$ 76,790
	For the following specific purposes:		
	Vocational training school building and equipment	10,000	
	Renovation of basement white nurses' home	6,800	
	Renovation of basement colored nurses' home	3,000	
	Two cottages for employes	6,000	
	Cottage for negro employes	2,000	
	Air conditioning unit for operating room	1,000	

Building for negro patients	100,000		
Equipment for negro building	10,000		
Total Purposes	138,800		
Less: P. W. A. grant	62,010		
WESTERN NORTH CAROLINA SANATORIUM			Western North Carolina Sanatorium, Black Mountain.
Black Mountain		$ 23,735	
For the following specific purposes:			
Five houses for colored employes	5,200		
Extension to kitchen	6,000		
Three houses for white employes	10,500		
Furniture for administration building	1,200		
Furniture for patients' building	1,600		
Air conditioning unit for operating room	1,000		
Roads and landscaping	8,000		
Total Purposes	33,500		
Less: P. W. A. grant	9,765		
STONEWALL JACKSON TRAINING SCHOOL,			Stonewall Jackson Training School, Concord.
Concord		$ 8,085	
For the following specific purposes:			
Poultry houses	2,000		
Brooder house	1,200		
Remodeling laundry	2,500		
Storage and work room	3,000		
Canning shed and storage	3,000		
Hay storage	3,000		
Total Purposes	14,700		
Less: P. W. A. grant	6,615		
STATE HOME AND INDUSTRIAL SCHOOL			State Home and Industrial School for Girls, Eagle Springs.
FOR GIRLS, Eagle Springs		$ 4,260	
For the following specific purposes:			
Roof replacement	1,130		
Laundry equipment	2,755		
Renovation of sewerage system	1,090		
Telephone extension	280		
Total Purposes	5,255		
Less: P. W. A. grant	995		
MORRISON TRAINING SCHOOL, Hoffman		$ 5,885	Morrison Training School, Hoffman.
For the following specific purposes:			
Renovating McLean, Varser, Parsons, and			

	Kate Burr Johnson buildings	10,700	
	Less: P. W. A. grant	4,815	
Eastern Carolina Training School, Rocky Mount.	EASTERN CAROLINA TRAINING SCHOOL, Rocky Mount		$ 4,400
	For the following specific purposes:		
	Roads	2,000	
	Maternity barn	2,000	
	Sewage treatment system	4,000	
	Total Purposes	8,000	
	Less: P. W. A. grant	3,600	
State Industrial Farm Colony for Women, Kinston	STATE INDUSTRIAL FARM COLONY FOR WOMEN, Kinston		$ 9,625
	For the following specific purposes:		
	Industrial building	15,000	
	Equipment for industrial building	2,500	
	Total Purposes	17,500	
	Less: P. W. A. grant	7,875	
Confederate Women's Home, Fayetteville.	CONFEDERATE WOMEN'S HOME, Fayetteville		$ 4,400
	For the following specific purposes:		
	Sprinkler system	8,000	
	Less: P. W. A. grant	3,600	
Public Buildings and other purposes.	PUBLIC BUILDINGS AND OTHER PURPOSES		
Board of Public Buildings and Grounds.	BOARD OF PUBLIC BUILDINGS AND GROUNDS		$ 644,710
	For the following specific purposes:		
	Enlarging and renovating central heating plant for State office buildings	122,505	
	Sprinkler system for Capitol	15,000	
	Department of Justice building and land	692,000	
	State office building on Caswell Square for Unemployment Compensation Commission	200,000	
	Total Purposes	1,029,505	
	Less: P. W. A. grant	384,795	
Dept. of Conservation and Development, Division of Commercial Fisheries.	DEPARTMENT OF CONSERVATION AND DEVELOPMENT—DIVISION OF COMMERCIAL FISHERIES, Morehead City		$ 8,250

For the following specific purposes:		
Purchase of two boats to patrol commercial fishing waters	15,000	
Less: P. W. A. grant	6,750	
NORTH CAROLINA HISTORICAL COMMISSION, Raleigh		$ 27,500
For the following specific purposes:		
Equipment for housing and displaying historical documents and records	50,000	
Less: P. W. A. grant	22,500	

North Carolina Historical Commission.

SEC. 8. That the Governor, with the advice of the Council of State, is hereby authorized and empowered to reallocate the sums appropriated in the foregoing section of this Act, and to provide that the same may be used and employed by the several institutions, departments and agencies of the State for purposes other than those defined and described in this Act, if such purposes are approved by the Governor, provided, it shall be found by reason of additional grants in aid made available through applications to any agency or agencies of the United States of America, or by funds otherwise provided, or by savings made, funds may be provided to complete the specific projects out of the appropriations mentioned in this Act and without requiring the full use of the funds herein provided for such purposes: *Provided, further*, that no expenditures by or for the State shall be approved or authorized by the Governor which shall be in excess of the total amounts provided in this Act for the respective institutions, departments and agencies as herein mentioned.

Reallocation of funds by Governor and Council of State.

SEC. 9. That the several institutions, departments and agencies of the State are hereby fully authorized and empowered to make application or applications to any agency or agencies of the United States of America for grants in aid for the construction of the several purposes mentioned in this Act and receive and expend the same in accordance with the terms of such grants and in conformity with the laws of this State, and may employ architects, engineers, and make all necessary contracts in connection with the said projects, and shall have further authority to acquire the necessary sites for the construction of such improvements. The Governor, or such agency or person as may be designated by him, is fully authorized and empowered to make applications to and receive such grants in aid as may be made by an agency or agencies of the United States of America for the construction and renovation of buildings and improvements referred to in this Act, and equipping the same and acquiring sites therefor.

Applications for grants in aid from Federal Government.

Expenditure.

SEC. 10. The Board of Public Buildings and Grounds is hereby authorized, empowered and directed to erect and equip the buildings and structures of the State for which appropriations are made in this Act, and to acquire the necessary site for the Depart-

Supervision by Board of Public Buildings and Grounds.

ment of Justice Building. The Chief Justice of the Supreme Court of North Carolina shall act as a member of said Board in all things authorized to be done in connection with the Department of Justice Building.

Issuance and sale of anticipation notes.

SEC. 11. By and with the consent of the Governor and Council of State, who shall determine the rate or maximum rate of interest and the date or approximate date of payment, the State Treasurer is hereby authorized to borrow money at the lowest rate of interest obtainable, and to execute and issue notes of the State for the same, but only in the following circumstances and under the following conditions:

Anticipating sale of bonds.

(a) For anticipating the sale of any of said bonds to the issuance of which the Governor and Council of State shall have given consent, if the Treasurer shall deem it advisable to postpone the issuance of such bonds.

Payment of interest or principal.

(b) For the payment of interest upon or principal of any of said bonds then outstanding, if there shall not be sufficient funds in the State Treasury with which to pay such interest or principal as they respectively fall due.

Renewals.

(c) For the renewal of any loan evidenced by notes herein authorized.

Payment of bond anticipation notes.

SEC. 12. Notes issued in anticipation of the sale of said bonds shall be paid with funds derived from the sale of the bonds unless otherwise provided for by the General Assembly, and notes issued for the payment of interest or principal shall be paid from funds provided by the General Assembly for the payment of such interest or principal when such funds are collected. Interest payments upon said notes may be evidenced by interest coupons in the Treasurer's discretion.

Payment of principal and interest notes.

Full faith and credit of State pledged.

SEC. 13. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal and interest of the bonds and notes herein authorized.

Coupons receivable in payment of taxes, etc.

SEC. 14. The coupons of said bonds and notes after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands due the State of any kind whatsoever.

Bonds, notes and coupons exempt from taxation.

SEC. 15. All of said bonds and notes and coupons shall be exempt from all State, county and municipal taxation or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on said bonds and notes shall not be subject to taxation as for income, nor shall said bonds or notes or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company, or other corporation.

Investment by fiduciaries authorized.

SEC. 16. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissioners, to invest any moneys in their hands in said bonds and notes.

SEC. 17. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 18. This Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 13th day of August, 1938.

H. B. 3 **CHAPTER 2**

AN ACT AUTHORIZING COUNTIES, CITIES, TOWNS, AND SANITARY DISTRICTS TO ACQUIRE, CONSTRUCT, RECONSTRUCT, IMPROVE, BETTER, AND EXTEND REVENUE-PRODUCING UNDERTAKINGS; TO MAINTAIN AND OPERATE THE SAME; TO PRESCRIBE, REVISE, AND COLLECT RATES, FEES, TOLLS, AND CHARGES FOR THE SERVICES, FACILITIES AND COMMODITIES FURNISHED THEREBY; AND IN ANTICIPATION OF THE COLLECTION OF THE REVENUES THEREOF, TO ISSUE NEGOTIABLE BONDS PAYABLE SOLELY FROM SUCH REVENUES; REGULATING THE ISSUANCE OF SUCH BONDS AND PROVIDING FOR THEIR PAYMENT AND FOR THE RIGHTS OF THE HOLDERS THEREOF, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina do enact:

SECTION 1. *Short Title of Act.* This Act may be cited as the "Revenue Bond Act of one thousand nine hundred and thirty-eight." Title of Act.

SEC. 2. *Definitions.* Wherever used in this Act, unless a different meaning clearly appears from the context: Definitions:

(a) The term "undertaking" shall include the following revenue-producing undertakings or any combination of two or more of such undertakings, whether now existing or hereafter acquired or constructed: "Undertaking."

(1) Airports, docks, piers, wharves, terminals and other transit facilities, abattoirs, armories, auditoria, community buildings, cold storage plants, gymnasia, markets, stadia, swimming pools, hospitals, processing plants and sea products, warehouses, highways, causeways, parkways, viaducts, bridges, and other crossings.

(2) Systems, plants, works, instrumentalities, and properties: (i) used or useful in connection with the obtaining of a water supply and the conservation, treatment, and disposal of water for public and private uses, (ii) used or useful in connection with the collection, treatment, and disposal of sewage, garbage, waste and storm water, (iii) used or useful in connection with the generation, production, transmission, and distribu-

tion of gas (natural, artificial, or mixed) or electric energy for lighting, heating, and power for public and private uses, together with all parts of any such undertaking and all appurtenances thereto including lands, easements, rights in land, water rights, contract rights, franchises, approaches, dams, reservoirs, generating stations, sewage disposal plants, plants for the incineration of garbage, intercepting sewers, trunk connection and other sewer and water mains, filtration works, pumping stations, and equipment.

"Municipality." (b) The term "municipality" as used in this Act shall mean any county, city, town, incorporated village, or sanitary district of this State now or hereafter incorporated.

"Governing body." (c) The term "governing body" shall mean the board or body in which the general legislative powers of the municipality are vested.

Additional powers granted municipalities: SEC. 3. *Additional Powers.* In addition to the powers which it may now have, any municipality shall have power under this Act:

Construction of undertakings authorized by act. (a) to acquire by gift, purchase, or the exercise of the right of eminent domain, to construct, to improve, to better, and to extend any undertaking wholly within or wholly without the municipality, or partially within and partially without the municipality; and to acquire by gift, purchase, or the exercise of the right of eminent domain, lands, easements, rights in lands, and water rights in connection therewith;

Operation of undertakings. (b) to operate and maintain any undertaking for its own use, for the use of public and private consumers, and when operated primarily for its own use and users within the territorial boundaries of the municipality, such undertaking may be operated incidentally for users outside of the territorial boundaries of the municipality;

Collection of rates and fees. (c) to prescribe, revise, and collect rates, fees, tolls, or charges for the services, facilities, or commodities furnished by such undertaking; and in anticipation of the collection of the revenues of such undertaking, to issue revenue bonds to finance in whole or in part the cost of the acquisition, construction, reconstruction, improvement, betterment, or extension of any undertaking;

Issuance of revenue bonds.

Pledging of revenues for payment of bonds. (d) to pledge to the punctual payment of said bonds and interest thereon all or any part of the revenues of such undertaking (including the revenues of improvements, betterments, or extensions thereto thereafter constructed or acquired as well as the revenues of existing systems, plants, works, instrumentalities, and properties of the undertaking so improved, bettered, or extended) or of any part of such undertaking;

Implied powers. (e) to make all contracts, execute other instruments, and do all things necessary or convenient in the exercise of the powers herein granted, or in the performance of its covenants

or duties, or in order to secure the payment of its bonds; *Provided*, no encumberance, mortgage, or other pledge of property of the municipality is created thereby; *And Provided*, no property of the municipality is liable to be forfeited or taken in payment of said bonds; *And Provided*, no debt on the credit of the municipality is thereby incurred in any manner for any purpose. Pledging of property or general credit prohibited.

SEC. 4. *Procedure for Authorization of Undertaking and Revenue Bonds.* The acquisition, construction, reconstruction, improvement, betterment, or extension of any undertaking, and the issuance, in anticipation of the collection of the revenues of such undertaking, of bonds to provide funds to pay the cost thereof, may be authorized under this Act by resolution or resolutions of the governing body which may be adopted at a regular or special meeting by a majority of the members of the governing body. Unless otherwise provided therein, such resolution or resolutions shall take effect immediately and need not be laid over or published or posted. The governing body in determining such cost may include all costs and estimated costs of the issuance of said bonds; all engineering, inspection, fiscal, and legal expenses, and interest, which it is estimated will accrue during the construction period and for six months thereafter, on money borrowed or which it is estimated will be borrowed pursuant to this Act. Procedure for authorization of bonds.

SEC. 5. *Bond Provisions.* Revenue bonds may be issued under this Act in one or more series; may bear such date or dates, may mature at such time or times, not exceeding thirty years from their respective dates; may bear interest at such rate or rates, not exceeding six per centum per annum, payable at such time or times; may be payable in such medium of payment; at such place or places; may be in such denomination or denominations; may be in such form either coupon or registered; may carry such registration, conversion, and exchangeability privileges; may be subject to such terms of redemption with or without premium; may be declared or become due before the maturity date thereof; may be executed in such manner, and may contain such terms, covenants, assignments, and conditions as the resolution or resolutions authorizing the issuance of such bonds may provide. All bonds issued under this Act bearing the signature of officers in office on the date of the signing thereof shall be valid and binding notwithstanding that before the delivery thereof and payment therefor, such officers whose signatures appear thereon shall have ceased to be officers of the municipality issuing the same. Pending the preparation of the definitive bonds, interim receipts, in such form and with such provisions as the governing body may determine, may be issued to the purchaser or purchasers of bonds to be issued under this Act. Said bonds and coupons and said interim receipts shall be negotiable for all purposes, except as restricted Issuance of bonds. Date and maturity. Interest rate. Form and denomination, etc. Execution. Interim receipts. Negotiability.

by registration, and shall be and are hereby declared to be non-taxable for any and all purposes.

Covenants in resolutions.

SEC. 6. *Covenants in Resolutions.* Any resolution or resolutions authorizing the issuance of bonds under this Act to finance in whole or in part the acquisition, construction, reconstruction, improvement, betterment, or extension of an undertaking may contain covenants (notwithstanding that such covenants may limit the exercise of powers conferred by this Act) as to:

Rates and fees, etc.

(a) the rates, fees, tolls, or charges to be charged for the services, facilities, and commodities of such undertaking;

Disposition of revenue.

(b) the use and disposition of the revenue of said undertaking;

Reserve funds.

(c) the creation and maintenance of reserves or sinking funds, the regulation, use and disposition thereof;

Application of proceeds.

(d) the purpose or purposes to which the proceeds of the sale of said bonds may be applied, and the use and disposition of such proceeds;

Default and acceleration.

(e) events of default and the rights and liabilities arising thereupon, the terms and conditions upon which bonds issued under this Act shall become or may be declared due before maturity, and the terms and conditions upon which such declaration and its consequences may be waived;

Charges against municipality.

(f) a fair and reasonable payment by the municipality to the account of said undertaking for the services, facilities, or commodities furnished said municipality or any of its departments by said undertaking;

Other bond issues.

(g) the issuance of other or additional bonds or instruments payable from or a charge against the revenue of such undertaking;

Insurance.

(h) the insurance to be carried thereon, and the use and disposition of insurance moneys;

Books and audits.

(i) books of account and the inspection and audit thereof;

Limitations.

(j) limitations or restrictions as to the leasing or otherwise disposing of the undertaking while any of the bonds or interest thereon remain outstanding and unpaid; and

Operation and maintenance.

(k) the continuous operation and maintenance of the undertaking.

Act made part of contract with bondholders.

The provisions of this Act and of any such resolution or resolutions shall be a contract with every holder of said bonds; and the duties of the municipality and the governing body and the officers of the municipality under this Act and under any such resolution or resolutions shall be enforceable by any bondholder by mandamus or other appropriate suit, action, or proceeding at law or in equity.

General obligation of municipalities not pledged.

SEC. 7. *No Municipal Liability on Bonds.* Revenue Bonds issued under this Act shall not be payable from or charged upon any funds other than the revenue pledged to the payment thereof, nor shall the municipality issuing the same be subject to

any pecuniary liability thereon. No holder or holders of any such bonds shall ever have the right to compel any exercise of the taxing power of the municipality to pay any such bonds or the interest thereon; nor to enforce payment thereof against any property of the municipality; nor shall any such bonds constitute a charge, lien, or encumbrance, legal or equitable, upon any property of the municipality. Every bond issued under this Act shall contain a statement on its face that "this bond is not a debt of ....., but is payable solely from the revenues of the undertaking for which it is issued, as provided by law and the proceedings in accordance therewith, and the holder hereof has no right to compel the levy of any tax for the payment of this bond or the interest to accrue hereon and has no charge, lien or encumbrance legal or equitable upon any property of said .....".

Recitals in bonds.

SEC. 8. *Right to Receivership Upon Default.*

Right to receivership upon default.

(a) In the event that the municipality shall default in the payment of the principal or interest on any of the bonds after the same shall become due, whether at maturity or upon call for redemption, and such default shall continue for a period of thirty days; or in the event that the municipality or the governing body, or officers, agents, or employees thereof shall fail or refuse to comply with the provisions of this Act or shall default in any agreement made with the holders of the bonds, any holders of bonds or trustee therefor shall have the right to apply in an appropriate judicial proceeding to the Superior Court of the County in which the municipality is located or any court of competent jurisdiction for the appointment of a receiver of the undertaking, whether or not all bonds have been declared due and payable and whether or not such holder, or trustee therefor, is seeking or has sought to enforce any other right, or exercise any remedy in connection with such bonds. Upon such application the Superior Court or any other court of competent jurisdiction may appoint, and if the application is made by the holders of twenty-five per centum in principal amount of such bonds then outstanding, or any trustee for holders of such bonds in such principal amount, shall appoint a receiver of the undertaking.

Proceedings for appointment of receiver.

(b) The receiver so appointed shall forthwith, directly or by his agents and attorneys, enter into and upon and take possession of the undertaking and each and every part thereof and may exclude the municipality, its governing body, officers, agents, and employees and all persons claiming under them wholly therefrom and shall have, hold, use, operate, manage and control the same and each and every part thereof, and, in the name of the municipality or otherwise, as the receiver may deem best, and shall exercise all the rights and powers of the municipality with respect to the undertaking as the municipality

Management of undertaking by receiver.

itself might do. Such receiver shall maintain, restore, insure and keep insured, the undertaking, and from time to time shall make all such necessary or proper repairs as to such receiver may seem expedient and shall establish, levy, maintain and collect such fees, tolls, rentals, and other charges in connection with the undertaking as such receiver may deem necessary or proper and reasonable, and shall collect and receive all revenues and shall deposit the same in a separate account and apply such revenues so collected and received in such manner as the court shall direct.

Collection and application of revenues.

Restoration of possession of undertaking to municipality.

(c) Whenever all that is due upon the bonds and interest thereon, and upon any other notes, or other obligations, and interest thereon, having a charge, lien, or other encumbrance on the revenues of the undertaking and under any of the terms of any covenants or agreements with holders of bonds shall have been paid or deposited as provided therein, and all defaults shall have been cured and made good, the court may in its discretion, and after such notice and hearing as it deems reasonable and proper, direct the receiver to surrender possession of the undertaking to the municipality, the same right of the holders of the bonds to secure the appointment of a receiver to exist upon any subsequent default as hereinabove provided.

Receiverships under jurisdiction of court making appointment.

(d) Such receiver shall in the performance of the powers hereinabove conferred upon him, act under the direction and supervision of the court making such appointment and shall at all times be subject to the orders and decrees of such court and may be removed thereby. Nothing herein contained shall limit or restrict the jurisdiction of such court to enter such other and further orders and decrees as such court may deem necessary or appropriate for the exercise by the receiver of any functions specifically set forth herein.

Approval and sale of bonds.

SEC. 9. *Approval of State Agencies and Sale of Bonds by Local Government Commission.* All revenue bonds issued pursuant to this Act shall be approved and sold by the Local Government Commission in the same manner as municipal bonds are approved and sold by that Commission, except that the said Commission may sell any bonds issued pursuant to this Act to the United States of America, or any agency thereof, at private sale and without advertisement. It shall not be necessary for any municipality proceeding under this Act to obtain any other approval, consent, or authorization of any bureau, board, commission, or other like instrumentality of the State for the construction of an undertaking, provided, however, that existing powers and duties of the State Board of Health shall continue in full force and effect; and *Provided, further*, that no municipality shall construct any systems, plants, works, instrumentalities and properties used or useful in connection with the generation, production, transmission and distribution of gas

(natural, artificial, or mixed), or electric energy for lighting, heating, and power, for public and private uses, without having first obtained a certificate of convenience and necessity from the Public Utilities Commissioner, except that this requirement for a certificate of convenience and necessity shall not apply to any such undertaking defined in this proviso which has been authorized, or the bonds for which have been authorized, by any general, special or local law heretofore enacted.

Certificate of convenience and necessity proviso.

SEC. 10. *Construction of Act.* The powers conferred by this Act shall be in addition and supplemental to, and not in substitution for; and the limitations imposed by this Act shall not affect the powers conferred by any other general, special, or local law. Bonds or interim receipts may be issued under this Act without regard to the provisions of any other general, special, or local law. The General Assembly hereby declares its intention that the limitations of the amount or percentage of, and the restrictions relating to indebtedness of a municipality and the incurring thereof contained in the constitution of the State and in any general, special or local law shall not apply to bonds or interim receipts and the issuance thereof under this Act.

Powers granted declared supplementary.

Constitutional and statutory limitations inapplicable.

SEC. 11. *Termination of Power to Issue Bonds.* Except in pursuance to any contract or agreement theretofore entered into by any municipality, no municipality shall borrow any money or deliver any bonds pursuant to this Act to the purchaser or purchasers thereof after December thirty-first, One Thousand Nine Hundred and Forty.

Termination of power to issue bonds.

SEC. 12. *Separability of Provisions.* If any provision of this Act, or the application of such provision to any person, body, undertaking, or circumstance shall be held invalid, the remainder of the Act and the application of such provision to persons, bodies, undertakings, or circumstances other than those as to which it shall have been held invalid shall not be affected thereby.

Partial invalidity clause.

SEC. 13. *Authorizing Municipal Corporations to Lease Hospitals.* Section two thousand seven hundred and ninety-six of the North Carolina Code of one thousand nine hundred and thirty-five, being the Municipal Corporation Act of one thousand nine hundred and seventeen, Chapter one hundred and thirty-six, subchapter five, section four, be amended by adding the following:

C. S. 1935, Sec. 2796, amended.

That the governing body of any municipality, in order to provide for the management of a municipally owned hospital may lease such a hospital to a local, non-stock, non-profit corporation or association chartered to maintain and operate a community-type hospital upon such terms as the governing

Lease of municipally owned hospitals authorized.

bodies of the municipality and of the hospital, corporation or association may agree, for a term of years, with or without consideration, and in the sound discretion of the governing body of said municipality.

Ch. 456, Public Laws, 1935, amended.

SEC. 14. That Chapter four hundred fifty-six, Public Laws of one thousand nine hundred thirty-five, be amended as follows:

Housing Authorities Law applicable to towns of 5,000 or more.

By striking out in section two the words "fifteen thousand inhabitants" and inserting in lieu thereof "five thousand inhabitants".

By striking out in section three, subsection two, the words "fifteen thousand inhabitants" and inserting in lieu thereof the words "five thousand inhabitants".

Limitation of application of Sec. 11.

SEC. 15. That the limitation imposed by section eleven of this Act shall not apply to the provisions of sections thirteen and fourteen hereof.

Ch. 248, Public Local Laws, 1929, repealed.

SEC. 16. That Chapter two hundred forty-eight of the Public Local Laws of one thousand nine hundred and twenty-nine be, and the same is hereby, repealed.

SEC. 17. *Effective Date.* This Act shall be in full force and effect from and after its ratification.

In the General Assembly, read three times and ratified, this the 13th day of August, 1938.

H. B. 4

CHAPTER 3

AN ACT TO AMEND SECTION TWO THOUSAND NINE HUNDRED AND FORTY-THREE OF CONSOLIDATED STATUTES, VOLUME THREE, AS AMENDED, THE SAME BEING A PART OF THE MUNICIPAL FINANCE ACT.

The General Assembly of North Carolina do enact:

C. S. Vol. 3 Sec. 2943, amended.

SECTION 1. That section two thousand nine hundred and forty-three (2943) of the Consolidated Statutes, Volume Three, being a part of the Municipal Finance Act, as amended by section one of chapter one hundred and two of the Public Laws of one thousand nine hundred twenty-seven (the same being also sub-section two of section two thousand nine hundred forty-three of the North Carolina Code of one thousand nine hundred thirty-five (Michie), be and the same is hereby amended by striking out the period in the last line of said sub-section two, of said section two thousand nine hundred forty-three, and inserting in lieu thereof a comma, and further by adding after the word "jurisdiction" in the last line, of said sub-section two

of said section two thousand nine hundred forty-three, the words, "or are bonds for erosion control purposes or are bonds for erecting jetties or other protective works to prevent encroachment by the ocean, sounds or other bodies of water." Erosion control bonds exempted from 8% limitation.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act be and the same are hereby repealed. Conflicting laws repealed.

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

In the General Assembly read three times and ratified, this the 13th day of August, 1938.

H. B. 6 **CHAPTER 4**

AN ACT TO APPROPRIATE SEVENTY-FIVE THOUSAND DOLLARS FOR THE PARTICIPATION BY THE STATE OF NORTH CAROLINA IN THE NEW YORK WORLD'S FAIR TO BE HELD IN NEW YORK CITY IN THE YEAR ONE THOUSAND NINE HUNDRED AND THIRTY-NINE.

The General Assembly of North Carolina do enact:

SECTION 1. That there is hereby appropriated out of any moneys in the State Treasury, not otherwise appropriated, the sum of seventy-five thousand dollars ($75,000.) for the purpose of providing participation by the State of North Carolina in the New York World's Fair to be held in New York City in the year one thousand nine hundred and thirty-nine, which said amount shall be expended under the joint direction of the World's Fair Commission created by Chapter four hundred and thirty-eight, Public Laws of one thousand nine hundred and thirty-seven, and of the North Carolina Department of Conservation and Development. $75,000 appropriation for State participation in World's Fair.

SEC. 2. That the said sum shall be disbursed by vouchers drawn upon the State Treasurer and signed by the Chairman of the World's Fair Commission and by the Director of the North Carolina Department of Conservation and Development, not exceeding the sum of seventy-five thousand dollars ($75,000.), as may be required for carrying out the purposes of this Act. Disbursement.

SEC. 3. That the fund hereby appropriated shall not be subject to the provisions of Chapter one hundred, Public Laws of one thousand nine hundred and twenty-nine, as amended to date, nor to Chapter two hundred and sixty-one, Public Laws of one thousand nine hundred and thirty-one, as amended to date, nor Fund exempted from provisions of certain acts.

to Chapter two hundred and seventy-seven, Public Laws of 1931, as amended to date.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. This Act shall be in full force and effect from and after ratification.

In the General Assembly read three times and ratified, this the 13th day of August, 1938.

H. B. 8 **CHAPTER 5**

AN ACT TO AMEND HOUSE BILL THREE OF THE SPECIAL SESSION OF ONE THOUSAND NINE HUNDRED AND THIRTY-EIGHT, KNOWN AS THE "REVENUE BOND ACT OF ONE THOUSAND NINE HUNDRED AND THIRTY-EIGHT."

The General Assembly of North Carolina do enact:

Ch. 2, Public Laws, Extra Session, 1938, amended, to apply to school dormitories and teacherages.

SECTION 1. That all the terms, conditions and provisions of House Bill number Three enacted by the Special Session of one thousand nine hundred and thirty-eight be, and the same are hereby made applicable to the acquisition, construction, reconstruction, improvement, betterment, or extension of school dormitories and teacherages within this State.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified this 13th day of August, 1938.

S. B. 15 **CHAPTER 6**

AN ACT TO PERMIT COUNTIES, CITIES, AND TOWNS OF THIS STATE TO APPROPRIATE FUNDS FOR PARTICIPATION IN THE WORLD'S FAIR TO BE HELD IN NEW YORK CITY IN THE YEAR ONE THOUSAND NINE HUNDRED THIRTY-NINE.

The General Assembly of North Carolina do enact:

Appropriations by local units for participation in World's Fair, authorized.

SECTION 1. That the several counties, cities, and towns in this State are hereby authorized and empowered to appropriate from any available funds so much thereof as they deem advisable, to be expended by the World's Fair Commission, in order

for such counties, cities, and towns to participate in the World's Fair to be held in New York City in the year one thousand nine hundred thirty-nine.

SEC. 2. That all laws and clauses of laws in conflict with this act are hereby repealed. Conflicting laws repealed.

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

In the General Assembly read three times and ratified, this the 13th day of August, 1938.

PUBLIC LAWS
OF THE
STATE OF NORTH CAROLINA

REGULAR SESSION 1939

S. B. 10 **CHAPTER 1**

AN ACT TO AMEND CONSOLIDATED STATUTES SECTION FOUR THOUSAND TWO HUNDRED AND SIXTY-EIGHT SO AS TO INCLUDE RECEIVERS AND OTHER FIDUCIARIES IN THE EMBEZZLEMENT STATUTE.

The General Assembly of North Carolina do enact:

SECTION 1. That Consolidated Statutes Section four thousand two hundred and sixty-eight be and the same hereby is amended by adding after the comma following the word "trustee" and before the words "or any officer," the following: "or any receiver, or any other fiduciary". C. S. 4268, amended, to extend application of embezzlement statute.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of January, 1939.

S. B. 22 **CHAPTER 2**

AN ACT TO AMEND SECTION ELEVEN (d) OF CHAPTER ONE, PUBLIC LAWS, EXTRA SESSION, OF ONE THOUSAND NINE HUNDRED AND THIRTY-SIX, RELATING TO THE SELECTION OF PERSONNEL BY THE UNEMPLOYMENT COMPENSATION COMMISSION.

The General Assembly of North Carolina do enact:

SECTION 1. That Section eleven (d) of Chapter one of the Public Laws, Extra Session, of one thousand nine hundred and thirty-six, be, and the same hereby is amended by striking out the period after the word "examinations" in line ten before the word "all", and inserting a semicolon in lieu thereof and adding the following: Ch. 1, Public Laws, Extra Session, 1936, amended.

"Provided, however, that under any merit system provided, the employees of the Commission who have given satisfactory Certification without examination of U. C. C. employees.

service for a period of six months prior to certification of eligible employees under a merit system shall be certified as eligible for their present position without examination, and the Commission may retain such employees in such position as they may hold at the time of the certification."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after ratification.

In the General Assembly read three times and ratified, this 24th day of January, 1939.

S. B. 17 CHAPTER 3

AN ACT TO AMEND CHAPTER ONE HUNDRED OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-SEVEN, BEING "AN ACT TO ENABLE THE CREATION, GOVERNMENT, MAINTENANCE AND OPERATION OF SANITARY DISTRICTS AND PRESCRIBING THE POWERS OF SUCH DISTRICTS" RELATING TO SANITARY DISTRICTS IN CASWELL COUNTY.

The General Assembly of North Carolina do enact:

Ch. 100, Public Laws, 1927, amended.

SECTION 1. That Chapter one hundred of the Public Laws of one thousand nine hundred and twenty-seven, be and the same is hereby amended by adding at the end thereof a new section numbered 24(a) as follows:

Sanitary District Board, Caswell County, authorized to maintain fire department.

"SEC. 24(a). The Sanitary District Board shall have power to provide for the organization, equipment, maintenance, and government of fire companies and a fire department; and, in its discretion, may provide for a paid fire department, and for this purpose may create such offices and employments and fix such compensation as the said Sanitary District Board may deem right and proper."

SEC. 2. That this Act shall apply only to the sanitary districts in Caswell County.

Applicable to Moore County.

SEC. 3. That all the provisions of the original Act and the provisions of said Act as herein amended shall apply to Moore County.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 26th day of January, 1939.

S. B. 14 **CHAPTER 4**

AN ACT TO REQUIRE THE SALARY OF THE SUPREME COURT MARSHAL-LIBRARIAN TO BE FIXED BY THE SUPREME COURT AND APPROVED BY THE GOVERNOR.

The General Assembly of North Carolina do enact:

Compensation of Marshall-Librarian, Supreme Court.

SECTION 1. That the compensation of the Marshal and Librarian of the Supreme Court of North Carolina shall be fixed by the Supreme Court, with the approval of the Governor.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after the first day of January, one thousand nine hundred and thirty-nine.

In the General Assembly read three times and ratified, this the 1st day of February, 1939.

S. B. 23 **CHAPTER 5**

AN ACT TO AMEND THE FIRST PARAGRAPH OF SECTION ONE THOUSAND TWO HUNDRED AND TWENTY-FOUR (a), ARTICLE THIRTEEN, SECTION ONE, CHAPTER SEVENTY-SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-FIVE, NOW KNOWN AS SECTION ONE THOUSAND TWO HUNDRED AND TWENTY-FOUR (a) OF THE NORTH CAROLINA CODE OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE, RELATING TO CONSOLIDATION OF CORPORATIONS.

The General Assembly of North Carolina do enact:

Ch. 77, Public Laws, 1925, amended.

SECTION 1. That the first paragraph of section one thousand two hundred and twenty-four (a), Article thirteen, section one, Chapter seventy-seven of the Public Laws of one thousand nine hundred and twenty-five, now known as section one thousand two hundred and twenty-four (a) of the North Carolina Code of one thousand nine hundred and thirty-five be, and the same is hereby amended to read as follows:

C. S. 1935, Sec. 1224(a), amended.

Procedure and method for merger of two or more corporations.

"SEC. 1224-a. Any two or more corporations organized or to be organized, or existing under the laws of this State, or any corporation organized under the laws of this State and any corporation organized under the laws of any other state for the purpose of carrying on any kind of business may merge or consolidate into a single corporation which may be either one of

said merging or consolidating corporations or a new corporation under the laws of this State to be formed by means of such merger and consolidation, *provided*, the corporation resulting from said merger and consolidation shall be a corporation of the State of North Carolina; the directors, or a majority of them, of such corporations as desire to consolidate, may enter into an agreement signed by them, and under the corporate seals of the respective corporations, prescribing the terms and conditions of consolidation, the mode of carrying the same into effect, and stating such other facts as are necessary to be set out in the certificate of incorporation, as provided in this Chapter, as well as the manner and basis of converting the shares of each of the old corporations into stock of the new corporation, with such other details and provisions as are deemed necessary or desirable."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of February, 1939.

S. B. 47 **CHAPTER 6**

AN ACT TO AMEND CHAPTER THREE HUNDRED FORTY-NINE, OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO "THE LAW ENFORCEMENT OFFICERS' BENEFIT FUND".

The General Assembly of North Carolina do enact:

Sec. 3, Ch. 349, Public Laws, 1937, amended, to require J. P.s to transmit monthly reports of convictions.

SECTION 1. That section three of Chapter three hundred forty-nine, Public Laws of one thousand nine hundred thirty-seven, be amended by striking out in line four, after the word "courts" and before the word "shall" in line five, the comma and the words "but excepting courts of justices of the peace,".

Said section is further amended by striking out in line twenty-three, after the word "court" and before the word "having" in line twenty-four, the comma and the words "excepting courts of justices of the peace".

Sec. 9, Ch. 349, Public Laws, 1937, amended; provisions requiring assessment of $1.00, applicable to J. P.s

SEC. 2. That section nine of Chapter three hundred forty-nine, Public Laws of one thousand nine hundred thirty-seven, be amended by striking out in line two, after the word "courts" and before the word "of", the comma and the words "excepting courts of justices of the peace,".

SEC. 3. That section nine of Chapter three hundred forty-nine, Public Laws of one thousand nine hundred thirty-seven,

be further amended by striking out all of said section, after the period following the word "collected" in line nine, and insert in lieu thereof the following:

Sec. 9 further amended, as to Law Enforcement Officers' Benefit Fund.

"(a) One-half of such moneys so received shall be set up in a special fund to be known as 'The Law Enforcement Officers' Benefit and Retirement Fund', which shall be used for and disbursed in the manner hereinafter in this section set out.

Board of Commissioners of Law Enforcement Officers' Benefit and Retirement Fund created.

"(b) For the purpose of determining the recipient of benefits under this section and the amounts thereof to be disbursed, there is hereby created a board to be known as 'The Board of Commissioners of the Law Enforcement Officers' Benefit and Retirement Fund', which shall consist of the State Auditor, the State Insurance Commissioner, one Sheriff, one police officer, and one member of the North Carolina State Highway Patrol, the last three named members to be appointed by the Governor and to serve at his will.

Members.

Organization of Board.

"(c) That as soon as is practicable after the ratification of this Act, the organization of said board shall be perfected by the selection from its members of a chairman, vice-chairman, and secretary, and such other employees as in the opinion of the board, with the approval of the Governor, may be necessary to the proper handling of the business. A majority of the members of said board shall constitute a quorum for the purpose of transacting business of the board.

Powers and duties of Board.

"(d) The said Board of Commissioners shall have control of all payments to be made from such fund. It shall hear and decide all applications for compensation and for retirement benefits created and allowed under this Act, and shall have power to make all necessary rules and regulations for its administration and government, and for the employees in the proper discharge of their duties; it shall have the power to make decisions on applications for compensation or retirement benefits and its decision thereon shall be final and conclusive and not subject to review or reversal, except by the board itself; it shall cause to be kept a record of all its meetings and proceedings. Any person who shall willfully swear falsely in any oath or affirmation for the purpose of obtaining any benefits under this Act, or the payment thereof, shall be guilty of perjury and shall be punished therefor as provided by law.

Records required.

"(e) There shall be kept in the office of the said Board of Commissioners by the secretary, records which shall give a complete history and record of all actions of the Board of Commissioners in granting benefits, including retirement benefits, to peace officers as herein defined; such records shall give the name, date of the beginning of his service as a peace officer, and of his incapacity and the reason therefor. All records,

papers, and other data shall be carefully preserved and turned over to the succeeding officers or board members.

Annual report to Governor.

"(f) That on or before the first day of January of each year the said Board of Commissioners shall make to the Governor of the State of North Carolina a verified report containing a statement of all receipts and disbursements, together with the name of each beneficiary, and the amount paid to each beneficiary, for or on account of such fund. There shall be annually made by the State Auditor's Department a complete audit and examination of the receipts and the disbursements of the Board of Commissioners herein created.

Annual audit.

Gifts and grants.

"(g) That the Board of Commissioners of the said fund may take by gift, grant, devise, or bequest, any money, real or personal property, or other things of value and hold or invest the same for the uses of said fund in accordance with the purposes of this Act.

Pro-rata reduction of benefit payments.

"(h) In case the amount derived from the different sources mentioned and included in this Act shall not be sufficient at any time to enable the said Board of Commissioners to pay each person entitled to the benefits therefor, in full, the compensation granted, or the retirement benefit allowed, then an equitably graded percentage of such monthly payment or payments shall be made to each beneficiary until said fund shall be replenished sufficiently to warrant the resumption thereafter of such compensation or retirement benefit to each of said beneficiaries.

Rules and regulations as to eligibility for benefit payments.

"(i) The Board of Commissioners herein created shall have power and authority to promulgate rules and regulations and to set up standards under and by which it may determine the eligibility of officers for benefits under this Act, payable to peace officers who may be killed or become seriously incapacitated while in the discharge of their duty; such rules, regulations and standards shall include the amount of the benefits to be paid to the recipient in case of incapacity to perform their duty, as well as the amount to be paid such officers' dependents in case such officer is killed while in the discharge of his duty. The said board is also authorized to promulgate rules and regulations and set up standards under and by which officers may be eligible for retirement and to determine the amounts to be paid such officers as retirement benefits after it has been determined by the board that such officers are so eligible.

"In order for an officer to be eligible for retirement benefits under this Act, he shall voluntarily pay into the fund herein created a percentage of his monthly salary, which percentage shall be determined by the said board: *Provided*, that any officer so voluntarily contributing to the fund herein created, who has become incapacitated in the line of duty, shall not be re-

quired to contribute to the fund during the period of his disability. All peace officers as herein defined who are compensated on a fee basis, before they shall be eligible to participate in the retirement fund herein provided for, shall voluntarily pay into the fund a monthly amount to be determined by the said board, based upon such officer's average monthly income.

Retirement benefits after 20 years continuous service.

"(j) All officers who have contributed to the retirement fund herein provided for, and who have had twenty years continuous service as such peace officer in this State, shall be eligible for retirement benefits and the Board of Commissioners is authorized, in their discretion under rules and regulations promulgated by it, to determine when an officer has completed twenty years of continuous service.

Reimbursements to officers discharged without fault.

"(k) The Board of Commissioners is authorized and empowered in its discretion, upon a finding that any officer who has contributed to the retirement fund herein provided for has been discharged from the service through no fault of his own, to reimburse from the fund herein created an amount not to exceed that which such officer has contributed to the fund under the provisions of subsection (i) of this section.

Retirement benefits not available within 5 years.

"(l) No officers as herein defined shall be eligible to the retirement benefits herein provided for until the expiration of five years from the date of the ratification of this Act.

"Law Enforcement Officer" defined.

"(m) Law enforcement officers in the meaning of this Act shall include sheriffs, deputy sheriffs, constables, police officers, prison wardens and deputy wardens, prison camp superintendents, prison stewards, prison foremen and guards, highway patrolmen, and any citizen duly deputized as a deputy by a Sheriff or other law enforcement officer in an emergency, and all other officers of this State, or of any political subdivision thereof, who are clothed with the power of arrest.

Operation and maintenance expenses of Bureau, provided for.

"(n) From the other half of the funds derived and collected under this Act there is hereby appropriated a sum sufficient for the operation and maintenance of the Bureau of Identification and Investigation, the amount to be used for this purpose to be determined by the Budget Bureau, after proper hearing and in accordance with the provisions of the Executive Budget Act, and with the approval of the Governor. All funds remaining after such provision is made for the operation and maintenance of the Bureau of Identification and Investigation, as herein provided, shall be transferred to 'The Law Enforcement Officers' Benefit and Retirement Fund' at the end of each fiscal year.

Transmission of additional cost by J. P.s.

"(o) Each justice of the peace required to assess and collect the additional cost provided for in this Act shall, on or before the first day of each month, transmit such cost so collected, giv-

ing the name of the case in which such cost was taxed, to the Clerk of the Superior Court of the county in which such case was tried, who will forthwith remit such funds to the Treasurer of the State of North Carolina as in all other cases. Failure of any justice of the peace to comply with the terms of this subsection shall make such justice of the peace liable for removal from office by the resident judge of the judicial district in which such action was tried."

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of February, 1939.

S. B. 54

CHAPTER 7

AN ACT TO AMEND CHAPTER TWO HUNDRED AND SEVENTY-EIGHT, OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, RELATIVE TO DRAINAGE DISTRICTS IN EDGECOMBE COUNTY.

The General Assembly of North Carolina do enact:

Ch. 278, Public Laws, 1937, amended.

SECTION 1. That Chapter two hundred and seventy-eight of the Public Laws of one thousand nine hundred and thirty-seven be amended by adding after section one a new section to read as follows:

Loans to Drainage Districts by Board of Commissioners, Edgecombe Co.

"SEC. 2. The Board of Commissioners of Edgecombe County is authorized and empowered, at any time after issue of summons in such proceeding and before the sale of bonds, to lend to the use of any such proposed district such additional funds as may be necessary to carry on the projects; and said Board of Commissioners is further authorized and empowered to borrow money for such purpose and pledge the full faith and credit of said county; provided, that such advances be repaid out of the funds arising from the sale of the bonds of said drainage district."

Sec. 2, renumbered.

SEC. 2. That "SEC. 2." of said Act be renumbered "SEC. 3".

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of February, 1939.

H. B. 33 **CHAPTER 8**

AN ACT TO PROVIDE EMPLOYMENT PREFERENCE FOR UNEMPLOYED WAR VETERANS.

The General Assembly of North Carolina do enact:

SECTION 1. That hereafter in all examinations of applicants for positions with this State or any of its departments or institutions, a preference rating of ten percent shall be awarded to all the citizens of the State who served the State or the United States honorably in either the Army, Navy, Marine Corps, or Nurses' Corps in time of war.

10% preference rating to Veterans in examinations for positions.

SEC. 2. That all departments and institutions of the State, or their agencies, shall give preference to such unemployed veterans as enumerated in section one in filling vacant positions in construction or maintenance of public buildings and grounds, construction of highways, or any other employment under the supervision of the State or its departments, institutions, or agencies: *Provided,* that the provisions of this Act shall apply to widows of such veterans and to the wife of any disabled veteran.

Employment preference.

SEC. 3. All laws and clauses of laws in conflict are hereby repealed.

Conflicting laws repealed.

SEC. 4. This Act is to be in full force from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of February, 1939.

H. B. 55 **CHAPTER 9**

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED FORTY-THREE OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO TERMS OF SUPERIOR COURT FOR MECKLENBURG COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That section one thousand four hundred and forty-three of the Consolidated Statutes of North Carolina be amended by inserting at the end of the paragraphs under the heading "Mecklenburg", and immediately before the words "Fifteenth District", the following: In addition to the courts above set out for Mecklenburg County, the following terms of Superior Court for the trial of civil cases in Mecklenburg County shall be held, as follows: eighth Monday before the first Monday in March; sixth Monday before the first Monday

C. S. 1443, amended.

Additional terms of civil court, Mecklenburg County.

in March; fourth Monday before the first Monday in March; second Monday before the first Monday in March; first Monday in March; second Monday after the first Monday in March; fourth Monday after the first Monday in March; sixth Monday after the first Monday in March; eighth Monday after the first Monday in March; tenth Monday after the first Monday in March; twelfth Monday after the first Monday in March; fourteenth Monday after the first Monday in March; the first Monday in September; the second Monday after the first Monday in September; the fourth Monday after the first Monday in September; the sixth Monday after the first Monday in September; the eighth Monday after the first Monday in September; the tenth Monday after the first Monday in September; the twelfth Monday after the first Monday in September; and the fourteenth Monday after the first Monday in September. Said terms of court may be held contemporaneously with other courts in said County or District, shall be for two weeks each, shall be for the trial of civil cases only, and shall be held by regular and/or special or emergency judges who shall be assigned by the Governor, and the special or emergency judges who preside over said additional terms of court shall have all the powers conferred upon any resident or regular judge.

Assignment of Judge.

Additional terms of criminal court, Mecklenburg County.

In addition to the courts above set out for Mecklenburg County, the following terms of Superior Court for the trial of criminal cases in Mecklenburg County shall be held, as follows: the sixth Monday before the first Monday in March; the second Monday after the first Monday in March; the sixteenth Monday after the first Monday in March; the third Monday before the first Monday in September; the second Monday after the first Monday in September; and the thirteenth Monday after the first Monday in September. Said terms of court may be held contemporaneously with other courts in said County or District, shall be for two weeks each, shall be for the trial of criminal cases only, and shall be held by regular and/or special or emergency judges who shall be assigned by the Governor, and the special or emergency judges who preside over said additional terms of court shall have all the powers conferred upon any resident or regular judge.

Assignment of Judge.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Effective date.

SEC. 3. That this Act shall take effect and be in force on and after April tenth, one thousand nine hundred thirty-nine.

In the General Assembly read three times and ratified, this the 1st day of February, 1939.

S. B. 9

CHAPTER 10

AN ACT TO AMEND CHAPTER FOUR HUNDRED AND SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN PRESCRIBING THE PENALTY FOR FAILURE TO STOP IN THE EVENT OF HIGHWAY ACCIDENTS INVOLVING PROPERTY DAMAGE.

The General Assembly of North Carolina do enact:

Sec. 128, Ch. 407, Public Laws, 1937, amended.

SECTION 1. That section one hundred and twenty-eight of Chapter four hundred and seven of the Public Laws of one thousand nine hundred and thirty-seven be, and the same hereby is amended by striking out all of subsection (b) of section one hundred and twenty-eight and substituting in lieu thereof the following:

Accidents involving property damage only; failure to stop made misdemeanor.

"(b) The driver of any vehicle involved in an accident resulting in damage to property and in which there is not involved injury or death of any person, shall immediately stop such vehicle at the scene of the accident, and any person violating this provision shall be guilty of a misdemeanor and fined or imprisoned, or both, in the discretion of the Court."

Section further amended as to penalty provided.

SEC. 1½. That section one hundred and twenty-eight, Chapter four hundred and seven, Public Laws of one thousand nine hundred and thirty-seven be, and the same is hereby amended by striking out the following in subsection (a) of section one hundred and twenty-eight, "by a fine or imprisonment in the discretion of the Court," and insert in lieu thereof the following: "as provided in section one hundred and forty-two of this Act."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 2nd day of February, 1939.

H B. 82

CHAPTER 11

AN ACT TO AMEND CHAPTER THREE HUNDRED AND SIXTY-TWO OF THE PUBLIC LAWS OF NORTH CAROLINA, SESSION ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE, ENTITLED: "AN ACT TO ENLARGE THE TERM OF OFFICE OF THE SEVERAL REGISTERS OF DEEDS OF THIS STATE", SO AS TO INCLUDE WASHINGTON COUNTY.

The General Assembly of North Carolina do enact:

Ch. 362, Public Laws, 1935, amended.

SECTION 1. That Chapter three hundred and sixty-two, Pub-

lic Laws of North Carolina, session one thousand nine hundred and thirty-five, be amended so as to apply to Washington County as follows: After the word "Vance" and before the word "Yadkin" strike out the word "Washington".

Four-year term for Register of Deeds, Washington County.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

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

In the General Assembly read three times and ratified, this the 2nd day of February, 1939.

S. B. 20 CHAPTER 12

AN ACT TO PERMIT THE COUNTY COMMISSIONERS TO GIVE TO HOSPITALS FOR MEDICINAL PURPOSES TAX-PAID LIQUOR SEIZED BY OFFICERS AND TO OTHERWISE DISPOSE OF THE SAME.

The General Assembly of North Carolina do enact:

C. S. Vol. 3, Sec. 3411, amended, as to disposal of tax paid liquors seized by officers.

SECTION 1. That section three thousand four hundred and eleven, sub-section (L) of Volume Three of the Consolidated Statutes be and the same is hereby amended by adding at the end of said section the following:

"Provided that any tax-paid liquor so seized may be turned over to the Board of County Commissioners to be given to hospitals for medicinal purposes and/or sold to legalized alcoholic beverage control stores within the State of North Carolina and the proceeds received therefrom placed in the school fund of the county wherein such seizure was made."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of February, 1939.

H. B. 10 CHAPTER 13

AN ACT TO VALIDATE CERTAIN ACTS OF TRUSTEES SUBSTITUTED IN DEEDS OF TRUST UNDER THE PROVISIONS OF CHAPTER SEVENTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-ONE.

The General Assembly of North Carolina do enact:

SECTION 1. That whenever heretofore a trustee has been

substituted in a deed of trust in the manner provided by Chapter seventy-eight of the Public Laws of one thousand nine hundred and thirty-one, but the instrument executed by the holder and/or owners of all or a majority in amount of the indebtedness, notes, bonds, or other instruments secured by said deed of trust, and the certificate of the Clerk of the Superior Court executed in connection therewith under the provisions of section three of the Act above referred to, have not been registered as provided by said Act until after the substituted trustee has exercised some or all of the powers conferred by said deed of trust upon the trustee therein, including the advertising of the property conveyed by said deed of trust for sale, the sale thereof, and the execution of a deed by such substituted trustee to the purchaser at such sale, all such acts of said substituted trustee shall be deemed valid and effective in the same manner and to the same extent as if said instrument substituting said trustee, and the clerk's certificate thereon had been registered prior to the performance by said substituted trustee of any one or more of said acts, or other acts authorized by such deed of trust.

Exercise of powers granted substitute trustees, prior to registration of instrument and clerk's certificate, validated.

SEC. 2. This Act shall not be construed to affect any pending litigation, nor to divest vested rights.

Construction of Act.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of February, 1939.

S. B. 66 **CHAPTER 14**

AN ACT TO AMEND SECTION SIX THOUSAND EIGHT HUNDRED AND TWO OF VOLUME TWO, CONSOLIDATED STATUTES (ONE THOUSAND NINE HUNDRED NINETEEN), AS AMENDED BY CHAPTER FIFTY-FOUR OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-FIVE, PERMITTING THE ADJUTANT GENERAL TO BE A MEMBER OF THE ORGANIZED RESERVE CORPS OF THE UNITED STATES.

The General Assembly of North Carolina do enact:

SECTION 1. That section six thousand eight hundred and two of Volume two, Consolidated Statutes (one thousand nine hundred nineteen), be amended by striking out in line three the semicolon following the words "marine corps" and substituting in lieu thereof a comma and the words "organized reserve corps of the United States;".

C. S., Vol. II, 1919, Sec. 6802, amended, as to membership of Adjutant General in organized reserve corps of United States.

SEC. 2. That Chapter fifty-four of the Public Laws of one thousand nine hundred twenty-five be amended by striking out

Ch. 54, Public Laws, 1925, amended.

the period following the word "militia" in line eight and inserting in lieu thereof a comma and the words "or organized reserve corps of the United States."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1939.

S. B. 46

CHAPTER 15

AN ACT TO AMEND SECTION FOUR HUNDRED SEVENTY-SIX OF THE CONSOLIDATED STATUTES, VOLUME THREE (ONE THOUSAND NINE HUNDRED TWENTY-FOUR), AS AMENDED, RELATING TO THE SERVICE OF SUMMONS IN CIVIL ACTIONS.

The General Assembly of North Carolina do enact:

C. S., Vol. III, 1924, Sec. 476, and acts amendatory, amended.

SECTION 1. That Section four hundred seventy-six of the Consolidated Statutes, Volume three (one thousand nine hundred twenty-four), as amended by Chapter sixty-six of the Public Laws of one thousand nine hundred twenty-seven, as amended by Chapter one hundred thirty-two of the Public Laws of one thousand nine hundred twenty-seven, as amended by Chapter two hundred thirty-seven of the Public Laws of one thousand nine hundred twenty-nine, as amended by Chapter three hundred forty-three of the Public Laws of one thousand nine hundred thirty-five, be amended by adding at the end thereof a paragraph to read as follows:

Service of summons in tax and assessment foreclosure suits.

"*Provided*, that in all actions for tax foreclosures, street assessment foreclosures and sidewalk assessment foreclosures, summons must be served by the sheriff to whom it is addressed for service within sixty (60) days after the date of its issue; and upon serving the same, the officer shall note in writing upon the copy thereof, delivered to the defendant, the date of service, but failure to comply with this requirement shall not invalidate the service, and, if not served within sixty (60) days after the date of its issue upon every defendant, must be returned by the officer holding the same for service, to the clerk of the court issuing the summons, with notation thereon of its non-service and the reasons therefor as to every defendant not served."

Pending litigation unaffected.

SEC. 2. That this Act shall not affect pending litigation.

Conflicting laws repealed.

SEC. 3. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1939.

S. B. 63 CHAPTER 16

AN ACT TO AMEND SECTION SEVENTY-SIX OF THE CONSOLIDATED STATUTES RELATING TO THE CONVEYANCE OF PROPERTY OF NON-RESIDENT DECEDENT WITHOUT ADMINISTRATION AFTER FIVE YEARS FROM DEATH.

The General Assembly of North Carolina do enact:

SECTION 1. That Section seventy-six of the Consolidated Statutes, as amended by Chapter three hundred and fifty-five of the Public Laws of one thousand nine hundred and thirty-five, be and the same is hereby further amended by adding to the end of said section, as so amended, the following:

C. S. 76; Chapter 355, Public Laws, 1935, amended.

"But such conveyances shall be valid, if made five years from the death of a non-resident decedent, notwithstanding no letters testamentary or letters of administration shall have been granted."

Conveyance of properties of non-resident decedents.

SEC. 1½. "Providing the provisions of this Act shall not affect pending litigations nor conveyances heretofore made."

Pending litigation unaffected.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1939.

H. B. 57 CHAPTER 17

AN ACT TO GRANT AN EASEMENT IN THE BED OF NEW RIVER AND OVER MARSHLAND ADJACENT THERETO IN ONSLOW COUNTY TO THE UNITED STATES FOR DREDGING A WATERWAY CHANNEL THEREIN.

WHEREAS, the United States of America has heretofore made an appropriation by Act of Congress providing for the dredging of a channel ten feet deep and ninety feet wide in New River between the Inland Waterway and Jacksonville; and

Preamble: Dredging of channel in New River.

WHEREAS, the said appropriation and the beginning of the

Rights-of-way and spoil-disposal areas.

work of dredging said channel is conditioned upon local interest furnishing free of costs to the United States rights-of-way and spoil-disposal areas for initial work and for maintenance as may be necessary, and giving assurance satisfactory to the Secretary of War to hold and save the United States free from damages to oyster beds; and

Releases from persons owning oyster beds.

WHEREAS, citizens of North Carolina interested in the construction of the said channel have heretofore secured releases from persons privately owning oyster beds in New River in favor of the United States, whereby all claims were waived for damages to oyster beds between Sneads Ferry and the Inland Waterway; and

Release for damages to State owned beds.

WHEREAS, it is necessary to furnish assurance to the United States that it will be protected against any liability because of the dredging and maintenance of said channel in the bed of New River and through any natural or planted beds of oysters therein, which are or may be the property of the State; and

Damages to State property in dredging.

WHEREAS, it may become necessary or desirable to dump dredged material in the bed of New River and on marshland, as well as dredge through marshland, which is or may be the property of the State or of some agency of the State, in connection with the dredging and maintenance of said channel in New River and any extension of said channel to and connecting with the Atlantic Ocean: *Now, therefore,*

The General Assembly of North Carolina do enact:

Easement for dredging of channel, granted to the United States.

SECTION 1. An easement is hereby granted to the United States of America and the Secretary of War of the said United States to dredge a channel ninety feet wide and ten feet deep, and to maintain the same, together with the right in its or his discretion to dredge and maintain any enlargement of the same in the bed of New River in Onslow County, including the right to dredge through and to deposit dredged material on any natural or planted beds of oysters in the said New River, which are or may be the property of, or under the control of the State of North Carolina.

Easement for maintenance and extension.

SEC. 2. An easement is also granted to the United States of America and the Secretary of War to dredge and maintain such channel or extension or deepening thereof connecting the same with the Atlantic Ocean through any marshland in Onslow County belonging to the State of North Carolina or any agency thereof; and to deposit dredged material upon any such marshland.

SEC. 3. This Act shall be in effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1939.

H. B. 62 **CHAPTER 18**

AN ACT TO AMEND SECTION FIVE THOUSAND AND TWENTY-EIGHT OF VOLUME TWO, CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED NINETEEN, RELATIVE TO CEMETERY TRUST FUNDS.

The General Assembly of North Carolina do enact:

SECTION 1. Amend Section five thousand and twenty-eight of Volume two, Consolidated Statutes of one thousand nine hundred nineteen, by adding at the end of said Section a subsection to read as follows: C. S., Vol. II, 1919, Sec. 5028, amended.

"5028(a). That in lieu of the provisions of the first paragraph of this Section, the clerk of the superior court may, with the consent and approval of the sheriff and register of deeds, appoint any bank or trust company authorized to do business in this State as trustee for the funds authorized to be paid into his office by virtue of this Article; *provided,* that no bank or trust company shall be appointed as such trustee unless such bank or trust company is authorized and licensed to act as fiduciary under the laws of this State. Appointment of banking institutions as trustees for cemetery trust funds.

"Before any clerk shall turn over such funds to the trustee so appointed, he shall require that the trustee so named qualify before him as such trustee in the same way and manner and to the same extent as guardians are by law required to so qualify. After such trustee has qualified as herein provided, all such funds coming into its hands may be invested by it only in the securities set out in Consolidated Statutes five thousand and twenty-seven, and the income therefrom invested for the purposes and in the manner heretofore set out in this Article. All trustees appointed under the provisions of this Act shall render and file in the office of the clerk of the superior court all reports that are now required by law of guardians." Qualification of trustee. Investment of funds. Reports.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of February, 1939.

S. B. 90 **CHAPTER 19**

AN ACT TO AMEND CHAPTER TWO HUNDRED FORTY-THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE, RELATIVE TO RIGHTS OF ALIENS TO TAKE AND CONVEY REAL PROPERTY.

WHEREAS, by Chapter two hundred forty-three of the Public

Preamble: C. S. 192 repealed by Ch. 243, Public Laws, 1935.

Laws of one thousand nine hundred and thirty-five the General Assembly of North Carolina included Section one hundred ninety-two of the Consolidated Statutes among those repealed relating to adoption of minors; and,

Reference to Sec. 192 an inadvertence.

WHEREAS, the reference to Section one hundred ninety-two was obviously an inadvertence; *Now, Therefore,*

The General Assembly of North Carolina do enact:

Ch. 243, Public Laws, 1935, amended.

C. S. 192 as to rights of aliens to take and convey real property re-enacted.

SECTION 1. That Chapter two hundred forty-three, of the Public Laws of one thousand nine hundred and thirty-five be and the same is hereby amended by striking out the words "one hundred and ninety-two" in lines three and four of Section one of said Chapter and inserting in lieu thereof the words "one hundred and ninety-one."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 9th day of February, 1939.

S. B. 32 **CHAPTER 20**

AN ACT TO AMEND SECTION THREE THOUSAND THREE HUNDRED TWENTY-SIX, CONSOLIDATED STATUTES BY PERMITTING ASSISTANT SECRETARIES OF CORPORATIONS TO ATTEST CORPORATE CONVEYANCES.

The General Assembly of North Carolina do enact:

C. S. 3326, amended.

Attestation of corporate conveyances by assistant secretary.

SECTION 1. That Section three thousand three hundred twenty-six, Consolidated Statutes, applying to forms of probate for corporate conveyances be and the same is hereby amended as to the fourth provision and form of probate set out in same, being the provision and form of probate taken from the Public Laws of one thousand nine hundred seven, Chapter nine hundred twenty-seven, Section one, by inserting after the words, "sealed with its common seal and attested by its secretary," and before the word "the," the words (or assistant secretary), in said provision.

Corporate conveyances attested by assistant secretaries validated.

SEC. 2. That all corporate conveyances heretofore probated and recorded under said provision as hereinbefore set forth, wherein the same was attested by the assistant secretary, instead of the secretary, and otherwise regular, are hereby validated as if attested by the secretary of the corporation.

Attestation of banking corporation conveyances by cashier.

SEC. 2½. "That, in all forms of proof and certificate for deeds and conveyances executed by banking corporations, which corporations have no secretary, the cashier of said banking corpora-

tion shall attest such instruments; that all deeds and conveyances heretofore executed by banking corporations, where the cashier of said banking corporation has attested said instruments, which deeds and conveyances are otherwise regular, are hereby validated."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1939.

S. B. 67 **CHAPTER 21**

AN ACT TO AMEND CHAPTER TWO HUNDRED TEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-THREE, AS AMENDED, CREATING THE NORTH CAROLINA STATE BAR.

The General Assembly of North Carolina do enact:

Sec. 2, Ch. 210, Public Laws, 1933, amended; payment of dues required for active membership.

SECTION 1. That Section two of Chapter two hundred ten, Public Laws of one thousand nine hundred and thirty-three, be and the same is hereby amended by changing the period after the word "Carolina" in line seven thereof to a comma and by inserting the following words thereafter: "who shall have paid the membership dues hereinafter specified."

Sec. 17, amended.

SEC. 2. That Section seventeen of Chapter two hundred ten of the Public Laws of one thousand nine hundred thirty-three be amended by inserting in the eleventh line thereof, after the word "dollars," the following: "and shall thereafter, prior to the first day of July of each year, beginning with the calendar year one thousand nine hundred and thirty-nine, pay to the secretary-treasurer, in respect to the calendar year in which such payment is herein directed to be made, an annual membership fee of five dollars."

N. C. State Bar membership fee increased.

Sec. 17 further amended.

SEC. 3. That Section seventeen of Chapter two hundred ten of the Public Laws of one thousand nine hundred thirty-three be further amended by striking out the sentence beginning with the words "The secretary-treasurer" in line thirty thereof down to and including the word "act" in line forty-one and by substituting in lieu of said sentence the following: "The secretary-treasurer shall compile and keep currently correct from the names and post-office addresses forwarded to him and from any other available sources of information a list of members of The North Carolina State Bar and furnish to the Clerk of the Superior Court in each county, not later than the first day of October in each year, a list showing the name and address of each attorney for that

Secretary-Treasurer to keep list of members.

List of delinquents furnished to C. S. C.'s.

county who has not complied with the provisions of this Act. The name of each of the active members who shall be in arrears in the payment of membership fees for one or more calendar years shall be furnished to the presiding judge at the next term of the Superior Court after the first day of October of each year, by the Clerk of the Superior Court of each county wherein said member or members reside, and the court shall thereupon take such action as is necessary and proper.

Transmitted by clerk to presiding judge.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1939.

S. B. 76 CHAPTER 22

AN ACT TO PROVIDE FOR THE COLLECTION OF CERTAIN ESCHEATS AND THE CUSTODY THEREOF.

The General Assembly of North Carolina do enact:

Unclaimed salaries, etc. due for construction work declared escheats.

SECTION 1. Unpaid and unclaimed salary, wages or other compensation due to any person or persons from any person, firm, or corporations engaged in construction work in North Carolina for services rendered in such construction work within the State are, and are hereby declared, to be escheats coming within the laws of this State, and the same shall be paid to the University of North Carolina immediately upon the expiration of one year from the time the same became due.

Rebates and returns for overcharges due by utility companies.

SEC. 2. Rebates and returns of overcharges due by Utility Companies, which have not been paid to or claimed by the persons to whom they are due within a period of two years from the time they are due or from the time any refund was ordered by any court or by the Utilities Commission, shall be paid to the University of North Carolina.

Proceeds of liquidation of state banks, in hands of state or county officials.

SEC. 3. All monies now in the hands of Clerks of the Superior Court, the State Treasurer, or any other officer or agency of the State or county, or any other depository whatsoever, as proceeds of the liquidation of state banks by receivers appointed in the Superior Court prior to the Liquidation Act of one thousand nine hundred twenty-seven, shall be immediately turned over into the custody of the University of North Carolina: *Provided,* however, that nothing in this Act shall be construed to require the said clerk or other officer to turn over funds of minors or other incompetents in his possession, but the custody and control of the same shall be under existing law with reference thereto.

Certain unclaimed monies in hands of State Treasurer.

SEC. 4. All monies now in the hands of the Treasurer of the State, represented by state warrants in favor of any person, firm, or corporation, whatsoever, which have been unclaimed for a

period of five years, shall be turned over to the University of North Carolina.

Ownership absolute, after 10 years.

SEC. 5. All monies, claims, or other property coming into the possession of the University of North Carolina under this Act shall be deemed derelict property and shall be 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 monies, claims, or property shall be received by it, then the same shall be held by it absolutely.

Act inapplicable to State Warehouse Fund.

SEC. 6. Provided that this Act shall not apply to the Agricultural Fund now on hand known as the State Warehouse Fund.

Conflicting laws repealed.

SEC. 7. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 8. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1939.

H. B. 125 CHAPTER 23

AN ACT TO VALIDATE CERTAIN CONVEYANCES OF CORPORATIONS FROM WHICH CORPORATE SEAL WAS OMITTED.

The General Assembly of North Carolina do enact:

Certain corporate conveyances validated.

SECTION 1. All deeds and conveyances of land in this State, made by any corporation of this State prior to January first, one thousand nine hundred thirty-eight, executed in its corporate name and signed and attested by its proper officers, from which the corporate seal was omitted, shall be good and valid, notwithstanding the failure to attach said corporate seal.

Pending litigation unaffected.

SEC. 2. This Act shall not affect pending litigation.

SEC. 3. This Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1939.

H. B. 169 CHAPTER 24

AN ACT TO VALIDATE CERTAIN SALES OF REAL AND PERSONAL PROPERTY MADE BY SHERIFFS AND OTHERS UNDER EXECUTION AND ORDERS OF COURT.

The General Assembly of North Carolina do enact:

Certain judicial sales validated.

SECTION 1. That all sales of real and personal property here-

tofore made by a sheriff under execution, or by commissioner under order of court, in the manner provided by law for sale of real or personal property, on any day other than the days now provided by law, be, and the same are hereby, validated.

Pending litigation unaffected.

SEC. 2. That this Act shall not affect pending litigation.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1939.

H. B. 180 CHAPTER 25

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED FORTY-THREE OF THE CONSOLIDATED STATUTES WITH RESPECT TO THE SUPERIOR COURTS OF UNION COUNTY SO AS TO MAKE THE MAY TERM THEREOF A MIXED TERM.

The General Assembly of North Carolina do enact:

C. S. 1443, amended.

SECTION 1. That Section one thousand four hundred forty-three of the Consolidated Statutes relating to the terms of Superior Court to be held in Union County be and the same is hereby amended as follows:

Mixed term of court authorized for Union County.

"That if it shall appear to the Board of County Commissioners of Union County thirty days before the beginning of the term held on the ninth Monday after the first Monday in March that the condition of the criminal docket and the number of prisoners in jail make it necessary that said May term should be used for the trial of criminal cases as well as civil cases, then said Board of Commissioners are hereby authorized and empowered within their discretion to direct the Clerk of said Court to order the Grand Jury to assembly for said term, and to give thirty days notice in some local paper that criminal cases would be tried at said term, and all criminal process and undertaking returnable to a subsequent term shall be returnable to said May term."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 3. That this law shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1939.

H. B. 211 **CHAPTER 26**

AN ACT TO AMEND SECTION TWO THOUSAND THREE HUNDRED THIRTY-FOUR OF THE CONSOLIDATED STATUTES RELATING TO THE GRAND JURY FOR LINCOLN COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section two thousand three hundred thirty-four of the Consolidated Statutes be, and the same is hereby amended, in so far as the same applies to Lincoln County, by adding at the end thereof the following paragraph: C. S. 2334, amended.

"A grand jury for Lincoln County shall be selected at each January Term of the Superior Court in the usual manner by the Presiding Judge, which said grand jury shall serve for a period of one year from the time of its selection: *Provided*, that at any time the Judge of the Superior Court presiding over either criminal or civil court in said county may call said grand jury to assemble and may deliver unto said grand jury an additional charge." Selection of grand jury, Lincoln County. Term.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 14th day of February, 1939.

S. B. 59 **CHAPTER 27**

AN ACT TO AMEND CHAPTER ONE OF THE PUBLIC LAWS OF THE EXTRA SESSION OF ONE THOUSAND NINE HUNDRED THIRTY-SIX, KNOWN AS "THE UNEMPLOYMENT COMPENSATION LAW."

The General Assembly of North Carolina do enact:

SECTION 1. That Section three, Subsection (b) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding the following clause at the end of said subsection: "*Provided, however*, that each eligible individual who is totally unemployed in any week (as defined in Section nineteen (k) (1), whose benefit year begins on or after January first, one thousand nine hundred thirty-nine, shall be paid with respect to such weeks benefits at the rate per week appearing in the following table in Column II opposite which in Column I appear the wages payable to such individual during his base period with respect Sec. 3, subsection (b), Ch. 1, Public Laws, Extra Session, 1936, amended. Weekly benefits for total unemployment.

to 'employment'. However, after July first, one thousand nine hundred thirty-nine, for an individual whose employment prior to such date was in employment for an employer who after July first, one thousand nine hundred thirty-nine, was subject to the Railroad Unemployment Insurance Act and worked for some other employer subject to this Act, only the wages payable to such individual for employment performed for an employer not subject to the Railroad Unemployment Insurance Act after July first, one thousand nine hundred thirty-nine shall be used in determining wages payable during the base period.

Table for computing benefits.

COLUMN I *Wages Payable During Base Period*	COLUMN II *Weekly Benefit Amount*	COLUMN III *Ineligible Amount*
$1,461 and over	$15.00	$18.00
1,411.00 to $1,460.99	14.50	17.40
1,361.00 to 1,410.99	14.00	16.80
1,311.00 to 1,360.99	13.50	16.20
1,261.00 to 1,310.99	13.00	15.60
1,211.00 to 1,260.99	12.50	15.00
1,161.00 to 1,210.99	12.00	14.40
1,111.00 to 1,160.99	11.50	13.80
1,061.00 to 1,110.99	11.00	13.20
1,011.00 to 1,060.99	10.50	12.60
951.00 to 1,010.99	10.00	12.00
892.00 to 950.99	9.50	11.40
844.00 to 891.99	9.00	10.80
796.00 to 843.99	8.50	10.20
748.00 to 795.99	8.00	9.60
700.00 to 747.99	7.50	9.00
652.00 to 699.99	7.00	8.40
604.00 to 651.99	6.50	7.80
556.00 to 603.99	6.00	7.20
501.00 to 555.99	5.50	6.60
447.00 to 500.99	5.00	6.00
400.00 to 446.99	4.50	5.40
353.00 to 399.99	4.00	4.80
306.00 to 352.99	3.50	4.20
259.00 to 305.99	3.00	3.60
212.00 to 258.99	2.50	3.00
152.00 to 211.99	2.00	2.40
130.00 to 151.99	1.50	1.80
Under $130.00	Ineligible	

Section 3, subsection (c), amended, as to computation of benefits for partial unemployment.

SEC. 2. That Section three, Subsection (c), of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by inserting after the seventh word in the second sentence of said subsec-

tion a comma and the following words: "figured to the nearest multiple of fifty cents".

Sec. 3, subsection (d), amended, to limit application of section.

SEC. 3. That Section three, Subsection (d) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding the following sentence to the end of said subsection: "*Provided*, however, that the foregoing shall not apply to any eligible individual whose benefit year begins on or after January first, one thousand nine hundred thirty-nine".

Section 4, subsection (d), amended, as to application of section.

SEC. 4. That Section four, Subsection (d) paragraph three of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding the following to the end of said paragraph after the semicolon: "*Provided*, that this shall not apply to any benefit year beginning on or after January first, one thousand nine hundred thirty-nine, and *provided*, also, that any individual whose benefit year begins on or after January first, one thousand nine hundred thirty-nine, who has accumulated such two waiting period weeks within his benefit year, as provided in Subsection (d) hereof, shall not be required to accumulate any more waiting period weeks during his benefit year".

Section 4, subsection (e), amended to limit its application.

SEC. 5. That Section four, Subsection (e) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding the following to the end of said subsection: "*Provided*, that this shall not apply to any benefit year beginning on or after January first, one thousand nine hundred thirty-nine".

Sec. 7, amended.

SEC. 6. That Section seven of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by striking out subsection (c) and by inserting in lieu thereof the following subsections:

Separate accounts for each employer.

"(c) The Commission shall maintain a separate account for each employer and shall credit his account with all the contributions which he has paid or is paid on his own behalf. On and after January first, one thousand nine hundred thirty-nine, the Commission shall establish and maintain an employer's 'reserve account' for each employer subject to this Act, to which account the Commission shall credit out of the Unemployment Compensation Fund an amount equal to fifty per cent of the contributions paid by such employers pursuant to Section seven (b) with respect to employment during the calendar year one thousand nine hundred thirty-eight for the purpose of paying out of such accounts compensation payable

Employer's "reserve accounts" established.

Additional credits to "reserve accounts."

"Pooled accounts."

to all eligible individuals in accord with the provisions of paragraph (1) of this subsection. To these 'reserve accounts' shall also be credited seventy-five per cent of all contributions paid for each calendar year pursuant to this Act from and after January first, one thousand nine hundred thirty-nine, the remaining twenty-five per cent of the contributions to be credited to the 'pooled account' except as hereinafter provided. *Provided, further,* that no provision of this subsection shall in any way be subject to or affected by any provisions of the Executive Budget Act, Chapter eighty-nine, Public Laws one thousand nine hundred twenty-five, as amended.

Total unemployment benefit payments from reserve accounts.

"(1) Beginning January first, one thousand nine hundred thirty-nine, all benefit payments for weeks of total unemployment made during each calendar year to any eligible individual shall be paid out of the reserve account of such individual's employer or employers by whom he was employed during his base period. In accordance with the regulations of the Commission, such payments shall be charged against all employers of such individuals during his base period at the same ratio the wages payable by each employer bears to the total wages payable by all employers during the base period.

"Totally unemployed" defined.

For the purpose of this section, a person is deemed to be 'totally unemployed' if he earns no more than remuneration for odd jobs or subsidiary work.

Partial unemployment benefit payments from reserve accounts.

Except as provided hereafter, all benefit payments made after January first, one thousand nine hundred thirty-nine, during a calendar year for weeks of partial unemployment shall be paid out of the reserve accounts of employers by whom the eligible individuals are employed during the week or weeks of partial unemployment and whose action in reducing such individual's hours of work resulted in his becoming partially unemployed.

"Partial unemployment," defined.

For the purpose of this subsection weeks of partial unemployment shall be those weeks during which the individual works less than sixty per cent of schedule full time and earns less than the ineligible amount shown in Column III of Section three (b) of this Act, in his regular employment.

Payments from "pooled" accounts.

Any other weeks in which an individual is partially unemployed for the purpose of this subsection shall be paid out of the reserve accounts and charged against employers as is provided for total unemployment herein. In the event that an employer's credits in his reserve account become exhausted through the payment of benefits chargeable to such account, the benefit payments which are chargeable to such account shall be paid out of the 'pooled' account and at the same time the reserve account of the employer shall be debited accordingly.

Statements of charges and credits to employers.

"(2) As of the close of each calendar year and as soon thereafter as possible the Commission shall determine the balance to the credit of each employer in his reserve account and shall furnish him with a statement of all charges and credits

thereto. If during any calendar year the Commission finds an employer's credit balance is equal to an amount not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years or not less than seven and one-half per cent of the total wages payable by him with respect to employment in the preceding calendar year, whichever is the greater, the Commission shall allow credit on contributions paid or payable for the then current calendar year in an amount not to exceed seventy-five per cent of such contributions provided that no such credit can be allowed to any employer unless compensation has been payable from such accounts through the preceding calendar year. Where credit is allowed on contributions paid or payable, twenty-five per cent of the contributions paid or payable shall be credited to the 'pooled' account, and not to the employer's reserve account. In accordance with such regulations as the Commission may prescribe, the amount of credit to be allowed shall be the difference between seventy-five per cent of the contributions paid or payable for the calendar year and the amount necessary to maintain the employer's reserve account at not less than five times the largest amount of compensation paid from such account within any one of the three preceding calendar years or not less than seven and one-half per cent of the total wages payable by him with respect to employment in the preceding calendar year, whichever is the greater. *Provided, however,* that should the Commission be of the opinion that the balance to the credit of the 'pooled' account is insufficient to provide adequate security in the payment of all compensation to all eligible individuals, it shall direct such fact to the attention of the Council of State, and, upon finding of the Council that such a situation exists and declaration that emergency steps are advisable, the Commission is hereby authorized and empowered to reduce the maximum credit allowable under this section on contributions paid or payable to any employer to an amount not to exceed forty per cent of the contributions payable during any calendar year and to pay into and credit the 'pooled' account with sixty per cent of such contributions.

Allowance of credit on contributions.

Percentage payable to "pooled" account.

Determination of amount of credit allowable.

Provision for reduction of maximum credits.

"(3) The Commission may prescribe regulations for the establishment, maintenance, and dissolution of joint accounts by one or more employers having the relationship of parent and subsidiary companies. Any employer who is or becomes subject to the provisions of this Act under the terms of Section nineteen (f), whose organization, trade or business, or substantially all the assets thereof are transferred by sale, lease or otherwise shall have the privilege of transferring to his successor or assignee the reserve account herein established for such employer except that the purchaser, lessee or assignee shall not be entitled to any credit as provided herein

Regulations for maintenance and dissolution of joint accounts.

Transfer of reserve account to successor or assign.

except where compensation has been payable from such account throughout one previous calendar year and that after such condition has been met the reserve account then meets all other conditions as prescribed hereinbefore. Notice of such transfers shall be given to the Commission immediately. The Commission may make the provisions to govern such transfers of reserve accounts. In the event any employer subject to this Act ceases to be such an employer through the termination of coverage as provided in Section eight of this Act, the reserve account standing to the credit of such employer shall immediately upon such termination of coverage revert to the pooled fund established herein and the reserve account shall be closed.

Notice of transfers.

Reversion of employer's reserve accounts to pooled fund.

Continuation of actuarial study.

"(d) In order that the Commission shall be kept informed at all times on the circumstances and conditions of unemployment within the State and as to whether the stability of the fund is being impaired under the operation and effect of the system provided in subsection (c) of this section, the actuarial study now in progress shall be continued and such other investigations and studies of a similar nature as the Commission may deem necessary shall be made."

Section 9, subsection (a), amended.

SEC. 7. That Section nine, Subsection (a) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding to the end of said section the following: "except that within the Unemployment Compensation Fund 'reserve accounts' shall be maintained as provided in Section seven (c) hereof. The remaining portion and additions thereto of the Unemployment Compensation Fund, except the 'reserve accounts', shall be established and maintained as a 'pooled' fund. *Provided, however,* that the 'pooled' fund established hereunder and the 'reserve accounts' of 'employers,' as defined by Section one (a) of the Railroad Unemployment Insurance Act, shall be subject to such withdrawals and transfers as are provided for by Section nine of this Act, as amended."

Establishment and control of unemployment compensation funds.

Section 11, amended.

SEC. 8. That Section eleven of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding to said Section eleven the following subsections, to be known as Subsections (m) (n) (o) (p) (q) (r):

Commission authorized to hold hearings, etc.

(m) The Commission shall have the right and power to hold and conduct hearings for the purpose of determining the rights, status and liabilities of any "employing unit" or "employer" as said terms are defined by Section nineteen (e) and Section nineteen (f) and subsections thereunder of this Act. The Commission shall have the power and authority to deter-

mine any and all questions and issues of fact or questions of Law that may arise under the Unemployment Compensation Law that may affect the rights, liabilities and status of any employing unit or employer as heretofore defined by the Unemployment Compensation Law including the right to determine the amount of contributions, if any, which may be due the Commission by any employer. All hearings shall be conducted and held at the office of the Commission and shall be open to the public and shall be stenographically reported and the Commission shall provide for the preparation of a record of all hearings and other proceedings. The Commission may provide for the taking of evidence by a deputy in which event he shall swear or cause the witnesses to be sworn and shall transmit all testimony to the Commission for its determination. From all decisions or determinations made by the Commission any party affected thereby shall be entitled to an appeal to the Superior Court. Before such party shall be allowed to appeal, he shall within ten days after notice of such decision or determination, file with the Commission exceptions to the decision or the determination of the Commission, which exceptions will state the grounds of objection to such decision or determination. If any one of such exceptions shall be overruled then such party may appeal from the order overruling the exceptions, and shall, within ten days after the decision overruling the exceptions, give notice of his appeal. When an exception is made to the facts as found by the Commission, the appeal shall be to the Superior Court in Term Time but the decision or determination of the Commission upon such review in the Superior Court shall be conclusive and binding as to all questions of fact supported by any competent evidence. When an exception is made to any rulings of Law, as determined by the Commission, the appeal shall be to the Judge of the Superior Court at Chambers. The party appealing shall, within ten days after the notice of appeal has been served, file with the Commission exceptions to the decision or determination overruling the exception which statement shall assign the errors complained of and the grounds of the appeal. Upon the filing of such statement the Commission shall, within ten days, transmit all the papers and evidence considered by it, together with the assignments of errors filed by the appellant to a Judge of the Superior Court holding court or residing in some district in which such appellant either resides, maintains a place of business or conducts business. If there be no exceptions to any facts as found by the Commission the facts so found shall be binding upon the Court and it shall be heard by the Judge at Chambers at some place in the district, above mentioned, of which all parties shall have ten days notice.

Determination of questions of fact and law.

Hearings open to public.

Provision for taking of evidence by deputy.

Right of appeal to Superior Court.

Procedure on appeal.

Decision of Commission binding as to questions of fact.

Hearing on appeal.

(n) The cause shall be entitled "State of North Carolina on Relationship of the Unemployment Compensation Commission of North Carolina against (here insert name of appellant),"

Title of case on appeal.

Precedence over other civil actions.

and if there are exceptions to any facts found by the Commission it shall be placed on the civil issue docket of such Court and shall have precedence over other civil actions except those described in Section fourteen (b) of the Unemployment Compensation Law, and such cause shall be tried under such rules and regulations as are prescribed for the trial of other civil causes. By consent of all parties the appeal may be held and determined at Chambers before any Judge of a district in which the appellant either resides, maintains a place of business or conducts business, or said appeal may be heard before any Judge holding court therein, or in which the appellant either resides, maintains a place of business or conducts business. Either party may appeal to the Supreme Court from the judgment of the Superior Court under the same rules and regulations as are prescribed by Law for appeals, except that if an appeal shall be taken on behalf of the Unemployment Compensation Commission of North Carolina it shall not be required to give any undertaking or make any deposit to secure the cost of such appeal and such Court may advance the cause on its docket so as to give the same a speedy hearing.

Appeals to Supreme Court.

Decisions of Commission on parity with judgments of Superior Court.

(o) The decision or determination of the Commission when docketed in the office of the Clerk of the Superior Court of any county and when properly indexed and cross-indexed shall have the same force and effect as a judgment rendered by the Superior Court, and if it shall be adjudged in the decision or determination of the Commission that any employer is indebted to the Commission for contributions, penalties and interest or either of the same, then said judgment shall constitute a lien upon any property which said employer may own in said county with the same force and effect as any tax lien of the State of North Carolina or any governmental subdivision thereof, and said lien for contributions, penalties and interest, or either of the same, shall be on a parity and equal with any tax liens existing in favor of the State of North Carolina or any governmental subdivision thereof, whether such liens exist or attach by reason of any judgment or by operation of Law. The provisions of this section, however, shall not have the effect of releasing any liens for contributions, penalties or interest, or either of the same, imposed by other law, nor shall they have the effect of postponing the payment of said contributions, penalties or interest or depriving the said Unemployment Compensation Commission of North Carolina of any priority in order of payment provided in any other statute under which payment of the said contributions, penalties and interest or either of the same may be required. The Superior Court or any appellate court shall have full power and authority to issue any and all executions, orders, decrees, or writs that may be necessary to carry out the terms of said decision or determination of the Commission or to collect any amount of contribution, penalty or interest adjudged to be due the Commis-

Lien of judgments for contributions, etc., on parity with tax liens.

Issuance of executions and writs.

sion by said decision or determination. In case of an appeal from any decision or determination of the Commission to the Superior Court or from any judgment of the Superior Court to the Supreme Court all proceedings to enforce said judgment, decision, or determination shall be stayed until final determination of such appeal but no proceedings for the collection of any amount of contribution, penalty or interest due on same shall be suspended or stayed unless the employer or party adjudged to pay the same shall file with the Clerk of the Superior Court a bond in such amount not exceeding double the amount of contribution, penalty, interest or amount due and with such sureties as the Clerk of the Superior Court deems necessary conditioned upon the payment of the contribution, penalty, interest or amount due when the appeal shall be finally decided or terminated.

Bond required to stay proceedings for enforcement, pending appeals.

(p) The conduct of hearings shall be governed by suitable rules and regulations established by the Commission. The manner in which appeals and hearings shall be presented and conducted before the Commission shall be governed by suitable rules and regulations established by it. The Commission shall not be bound by common law or statutory rules of evidence or by technical or formal rules of procedure but shall conduct hearings in such manner as to ascertain the substantial rights of the parties.

Rules and regulations governing hearings before Commission.

(q) All subpoenas for witnesses to appear before the Commission, and all notices to employing units, employers, persons, firms or corporations shall be issued by the Commission or its Secretary and be directed to any Sheriff, constable or to the marshall of any city or town, who shall execute the same and make due return thereof as directed therein, under the penalties prescribed by law for a failure to execute and return the process of any court. All bonds or undertakings required to be given for the purpose of suspending or staying execution shall be payable to the Unemployment Compensation Commission of North Carolina, and may be sued on as are other undertakings which are payable to the State.

Issuance of subpoenas and notices.

Bonds payable to Unemployment Compensation Commission.

(r) None of the provisions or sections herein set forth in this amendment shall have the force and effect nor shall the same be construed or interpreted as repealing any of the provisions of Section six of the Unemployment Compensation Law and subsections thereunder which provide for the procedure and determination of all claims for benefits and such claims for benefits shall be prosecuted and determined as provided by said Section six of the Unemployment Compensation Law and subsections thereunder.

Construction of amendments.

SEC. 9. That Section fourteen, Subsection (c) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding the

Section 14, subsection (c), amended.

Collection of contributions upon transfer or cessation of business.

following subsection to be known as Subsection (c) (1): "The contribution or tax imposed by Section seven, and subsections thereunder, of this Act shall be a lien upon the assets of the business of any employer subject to the provisions hereof who shall lease, transfer or sell out his business, or shall cease to do business and such employer shall be required, by the next reporting date as prescribed by the Commission, to file with the Commission all reports and pay all contributions due with respect to wages payable for employment up to the date of such lease, transfer, sale or cessation of the business and such employer's successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said contributions due and unpaid until such time as the former owner or employer shall produce a receipt from the Commission showing that the contributions have been paid, or a certificate that no contributions are due. If the purchaser of a business or a successor of such employer shall fail to withhold purchase money or any money due to such employer in consideration of a lease or other transfer and the contributions shall be due and unpaid after the next reporting date, as above set forth, such successor shall be personally liable to the extent of the assets of the business so acquired for the payment of the contributions accrued and unpaid on account of the operation of the business by the former owner or employer".

Section 14, further amended.

SEC. 10. That Section fourteen of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding the following subsection to be known as Subsection (e): "No injunction shall be granted by any court or judge to restrain the collection of any tax or contribution or any part thereof levied under the provisions of this Act nor to restrain the sale of any property under writ of execution, judgment, decree or order of court for the non-payment thereof. Whenever any employer, person, firm or corporation against whom taxes or contributions provided for in this Act have been assessed, shall claim to have a valid defense to the enforcement of the tax or contribution so assessed or charged, such employer, person, firm or corporation shall pay the tax or contribution so assessed to the Commission; but if at the time of such payment he shall notify the Commission in writing that the same is paid under protest, such payment shall be without prejudice to any defenses or rights he may have in the premises, and he may, at any time within thirty days after such payment, demand the same in writing from the Commission; and if the same shall not be refunded within ninety days thereafter, he may sue the Commission for the amount so demanded; and if, upon the trial it shall be determined that such tax or contribution or any part thereof was for any reason invalid, excessive or contrary to the provisions of this Act, the

Injunctions against collections prohibited.

Payments under protest, without prejudice.

Right of action for recovery of protested payments.

amount paid shall be refunded by the Commission accordingly. The remedy provided by this subsection shall be deemed to be cumulative and in addition to such other remedies as are provided by other subsections of this Act."

Section 19, subsection (k), amended.

Sec. 11. That Section nineteen, Subsection (k), paragraph two of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding the following clause to the end of said subsection: *"Provided, however,* that an individual whose benefit year begins on and after January first, one thousand nine hundred thirty-nine, shall be deemed 'partially unemployed' in any week in which he has worked less than sixty per cent of scheduled full-time work for the industry or plant in which the individual was last employed and if his remuneration payable for such week is less than the ineligible amount shown in Column III of the table set forth in Section three (b) hereof."

"Partial unemployment" defined.

Sec. 19, subsection (s), amended.

Sec. 12. That Section nineteen, Subsection (s) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", and Chapter four hundred twenty-four of the Public Laws of one thousand nine hundred thirty-seven, which amended said Section nineteen, Subsection (s) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, be, and the same is hereby amended by striking out said Subsection (s) and the amendment thereto, and by inserting in lieu thereof the following subsection: "(s) For benefit years beginning on or after January first, one thousand nine hundred thirty-nine, the term 'base period' shall mean the completed calendar year immediately preceding the first day of an individual's benefit year as defined in Subsection (r) of this section, if the benefit year begins subsequent to July first; and if the benefit year begins prior to July first, the base period shall be the next to the last completed calendar year, notwithstanding the fact that an otherwise eligible individual may have exhausted wage credits to his account prior to January first, one thousand nine hundred thirty-nine, for any such calendar year. Except that for weeks of unemployment of any individual after July first, one thousand nine hundred thirty-nine, who has worked in employment for an employer which after July first, one thousand nine hundred thirty-nine, is subject to the Railroad Unemployment Insurance Act, then only the wages payable to such an individual earned in employment during the base period for an employer other than one subject to the Railroad Unemployment Insurance Act shall be used in determining his weekly benefit amount after July first, one thousand nine hundred thirty-nine."

Ch. 424, Public Laws, 1937, amended.

"Base period" defined.

Section 19, subsection (r), amended.

Sec. 13. That Section nineteen Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-

six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by striking out Subsection (r) of said section and inserting in lieu thereof the following: "(r) 'Benefit year', with respect to any individual who is otherwise eligible means the fifty-two consecutive week period beginning with the first day of the first week in which the claimant registered for work and filed a claim for benefits for total unemployment, or the week in which the claimant was partially unemployed as defined herein and with respect to which a claim is filed, and thereafter the next benefit year shall be the next fifty-two consecutive week period beginning with the first day of the first week with respect to which the claimant registers for work and files a claim for benefits for total unemployment or in which he is partially unemployed as defined herein and with respect to which a claim is filed, *provided, however,* that any individual whose employment under this Act prior to July first, one thousand nine hundred thirty-nine, shall have been for an employer subject after July first, one thousand nine hundred thirty-nine, to the Railroad Unemployment Insurance Act and some other employer subject to this Act, such individual's benefit year, if established before July first, one thousand nine hundred thirty-nine, shall terminate on that date and if again unemployed after July first, one thousand nine hundred thirty-nine, he shall establish another benefit year after such date with respect to employment subject to this Act."

"Benefit year" defined.

Section 3, subsection (e), amended, to limit application of section.

SEC. 14. That Section three, Subsection (e) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same is hereby amended by adding the following at the end of said Section three, Subsection (e): "*Provided, however,* that the foregoing shall not apply to an individual whose benefit year begins on and after January first, one thousand nine hundred thirty-nine. And *provided further,* that the maximum benefits payable to any eligible individual whose benefit year begins after January first, one thousand nine hundred thirty-nine shall be sixteen times his weekly benefit amount during any benefit year. After January first, one thousand nine hundred thirty-nine the Commission shall maintain accounts for each individual who earns wages in such manner and form as the Commission may prescribe as being adequate to administer the provisions of this Act."

Accounts for individual employees after Jan. 1, 1939.

Conflicting laws repealed.

SEC. 15. All laws or parts of laws in conflict herewith are hereby repealed.

SEC. 16. This Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1939.

S. B. 61 **CHAPTER 28**

AN ACT TO AMEND CHAPTER ONE OF THE PUBLIC LAWS OF THE EXTRA SESSION OF ONE THOUSAND NINE HUNDRED THIRTY-SIX, KNOWN AS THE UNEMPLOYMENT COMPENSATION LAW.

The General Assembly of North Carolina do enact:

Ch. 1, Public Laws, Extra Session 1936, amended.

SECTION 1. That the Unemployment Compensation Law, Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, be amended by adding a new subsection to be known as Section seven (e) as follows:

Unemployment benefits to workers in seasonal industries.

"(e) Whenever the Commission finds that on account of seasonal conditions it is highly impracticable or impossible for an employer in a particular industry or branch thereof to operate for a period or periods of not less than four weeks nor more than thirty-six weeks in a calendar year and the employer customarily operates entirely or in a branch of his industry only during a regularly recurring period or periods of not less than four weeks nor more than thirty-six weeks in a calendar year, then the rights to benefits payable to an otherwise eligible individual engaged in such a seasonal industry, or branch thereof, who earned as much as ten ($10.00) dollars during the preceding seasonal period, shall be limited in each calendar year to weeks of unemployment during the longest seasonal period or periods as determined by the Commission, upon application by the employer, to be customary in such industry or branch of such industry; provided only that the employer tenders at the beginning of each season, and throughout such season makes work available to each individual employed by him who earned as much as ten ($10.00) dollars during the preceding seasonal period. The employer shall tender work to such individual prior to the commencement of the seasonal period at such time and in such manner as the Commission may by regulation prescribe. Notice when given in accordance with such regulations shall be conclusive as to the fact of tender of work by the employer to the employee; and *provided further*, that if such individual fails without good cause to report for and accept such work at the time when tendered his right to compensation shall be barred for the duration of the season, but no individual shall be disqualified for benefits for failing to report for or refuse to accept work if such work is not suitable work as provided in Section five (c) of this law. It shall be the duty of the Commission, upon request and application of each employer, to ascertain and determine, or re-determine, such seasonal period or periods for each such seasonal employer. During a current season an otherwise eligible individual previously employed in a prior season and unemployed during such subsequent season through no fault of his own, shall be paid benefits for each week

Tender of suitable work by employer.

Right to benefits barred upon failure to accept suitable work.

Payments from "reserve" accounts, for seasonal unemployment.

of such unemployment within the seasonal period, in accordance with the provisions of this Act, and all such benefits thus paid for unemployment during the current season shall be paid out of and charged against the 'reserve' account of the employer by whom he was employed during the previous season. The maximum benefits payable to an otherwise eligible individual whose employment is only in a seasonal industry shall be limited to sixteen times his weekly benefit amount in a benefit year; however, any individual who during a current calendar year is eligible for payment of compensation during any week or weeks other than weeks of the calendar year embracing the seasonal period, and who, during the preceding calendar year was employed in a seasonal industry or branch thereof, shall only be entitled to maximum benefit payments as follows: If for any weeks of total unemployment which occur and for which benefits are payable, during any period not within the seasonal period as prescribed by the Commission, the maximum benefit amount shall be an amount equal to sixteen times his weekly benefit amount, divided by his total wages in the base period, and multiplied by the wages earned in base period in covered employment not within the seasonal period, and the maximum benefits payable for such individual during the seasonal period shall be an amount equal to sixteen times individual's weekly benefit amount divided by the wages earned in the base period and multiplied by the wages payable within the seasonal period in covered employment in the base period. The earnings of a worker who has earned wages in seasonal employment shall be taken into consideration together with all other wages earned in employment subject to this Act in determining his qualifications and eligibility for benefits. Where an employer in its branches or divisions carries on both seasonal and full-time operations, this section shall apply only to that portion of such industry or occupation as is determined by the Commission to be seasonal after application for such determination has been made by the employer, and notice thereof posted conspicuously by the employer in his seasonal establishments."

Maximum benefits to seasonal employees.

Maximum benefit payments for weeks outside seasonal period.

Application of Section.

Conflicting laws repealed.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 3. This Act shall be in effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1939.

H. B. 126 **CHAPTER 29**

AN ACT TO AMEND CHAPTER FOUR HUNDRED, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO DERELICT PROPERTY.

The General Assembly of North Carolina do enact:

Ch. 400, Public Laws, 1937, amended, to remove clause restricting application of Act to deposits of $5.00 or less.

SECTION 1. That Section two and one-half of Chapter four hundred of the Public Laws of one thousand nine hundred thirty-seven be, and it is hereby, stricken out.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1939.

H. B. 135 **CHAPTER 30**

AN ACT TO AMEND SECTION NINE HUNDRED AND TWENTY-SEVEN OF THE CONSOLIDATED STATUTES RELATIVE TO THE BONDS OF CLERKS OF THE SUPERIOR COURT.

The General Assembly of North Carolina do enact:

C. S. 927, amended to reduce minimum amount of bond required of C. S. C.'s.

SECTION 1. That Section nine hundred and twenty-seven of the Consolidated Statutes of North Carolina be, and the same is hereby, amended by striking out the word "ten" in line four thereof and substituting therefor, the word "five".

Application of Act.

SEC. 2. That this Act shall apply only to Hyde, Tyrell and Camden Counties.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1939.

H. B. 139 **CHAPTER 31**

AN ACT TO PROVIDE FOR SPECIAL JUDGES IN NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Appointment of four special judges by Governor.

SECTION 1. That the Governor of North Carolina may appoint four persons who shall possess the requirements and

qualifications of special judges as prescribed by Article four, Section eleven of the Constitution, and who shall take the same oath of office and otherwise be subject to the same requirements and disabilities as are or may be prescribed by law for Judges of the Superior Court, save the requirements of residence in a particular district, to be special Judges of the Superior Courts of the State of North Carolina. Two of the said Judges shall be appointed from the Western Judicial Division and two from the Eastern Judicial Division, as now established. The Governor shall issue a commission to each of said judges so appointed for a term to begin July first, one thousand nine hundred thirty-nine, and to end June thirtieth, one thousand nine hundred forty-one, and the said commission shall constitute his authority to perform the duties of the office of a special Judge of the Superior Courts during the time named therein.

Two each from Eastern and Western Judicial Divisions.

Terms designated.

Time of appointment.

Removal.

Vacancy appointments.

SEC. 2. That each special judge shall be appointed by the Governor on or before July first, one thousand nine hundred thirty-nine, and shall be subject to removal from office for the same causes and in the same manner as regular Judges of the Superior Court; and vacancies occurring in the offices created by this Act shall be filled by the Governor in like manner for the unexpired term thereof.

Two additional appointments authorized at discretion of Governor.

Terms of office provided.

SEC. 3. That the Governor is further authorized and empowered, if in his judgment the necessity exists therefor, to appoint at such time as he may determine, not exceeding two additional judges, one of whom shall be a resident of the Eastern Judicial Division and one of whom shall be a resident of the Western Judicial Division, whose term of office shall begin from his or their appointment and qualification and to end June thirtieth, one thousand nine hundred forty-one. That all the provisions of this Act applicable to the four special judges directed and appointed shall be applicable to the two special judges authorized to be appointed under this section.

Authority of appointments extended to regular and special terms.

SEC. 4. That the authority herein pursuant to Article four, Section eleven, of the Constitution of North Carolina, conferred upon the Governor to appoint such special judges shall extend to regular as well as special terms of the Superior Court, with either civil or criminal jurisdiction, or both, as may be designated by the statutes or by the Governor pursuant to law.

Jurisdiction and powers of special judges.

SEC. 5. That such special judges during the time noted in their commission shall have all the jurisdiction which is now or may be hereafter lawfully exercised by the regular Judges of the Superior Courts in the courts which they are appointed or assigned by the Governor to hold, and shall have power to determine all matters and injunctions, receiverships, motions, habeas corpus proceedings and special proceedings or an appeal otherwise properly before them; but writs of injunction, orders to show cause, and other remedial or amendatory writs, orders and notices shall be returnable before them only in the

Restriction as to writs.

county where the suit, proceeding or other cause is pending unless such judge is then holding the courts of that district, in which case the same may be returnable before him as before the regular Judge of the Superior Court; and the same, when issued by any such special judge, may always be made returnable by him before the resident or presiding Superior Court Judge of each district to the same extent and in the same manner as any Superior Court Judge might do in like case.

Compensation provided.

SEC. 6. That the special judges so appointed shall receive the same salary and traveling expenses as now are, or may hereafter be, paid or allowed to Judges of the Superior Court for holding their regularly assigned courts, and they shall hold all such regular and special terms of court as may be directed and assigned by the Governor to hold, without additional compensation: *Provided,* that no person appointed under this Act shall engage in the private practice of law.

Practice of law prohibited.

Appeal orders.

SEC. 7. That nothing herein shall be construed to prohibit such special judges from settling cases on appeal and making all proper orders in regard thereto after the time for which they were commissioned has expired.

Construction of Act.

SEC. 8. That all laws and clauses of laws which may be in conflict with this Act, to the extent of such conflict, are hereby repealed: *Provided,* that nothing herein shall in any manner affect Sections one thousand four hundred and thirty-five (a) and three thousand eight hundred and eighty-four (a) of the Consolidated Statutes.

SEC. 9. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1939.

H. B. 189 **CHAPTER 32**

AN ACT TO AMEND CHAPTER TWO HUNDRED FORTY-THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, AS AMENDED BY CHAPTER FOUR HUNDRED TWENTY-TWO OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATIVE TO SERVICE OF SUMMONS IN ADOPTION PROCEEDINGS.

The General Assembly of North Carolina do enact:

Ch. 243, Public Laws, 1935, amended.

SECTION 1. That Chapter two hundred forty-three of the Public Laws of one thousand nine hundred thirty-five, as amended by Chapter four hundred twenty-two of the Public Laws of one thousand nine hundred thirty-seven, be amended by adding

Service of summons by publication in adoption proceedings.

a proviso at the end thereof to read as follows: "*Provided*, that where the parents or surviving parent or guardian of the child whose adoption is sought cannot be found within this State for the service of process, that fact shall be made known to the court either by affidavit or return of the Sheriff of the county in which such person or persons were last known to reside. It shall be competent to make such service by publication of summons as provided by Section four hundred eighty-four, et seq., of the Consolidated Statutes and such person shall be bound in every respect by such service."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1939.

H. B. 202 CHAPTER 33

AN ACT TO AMEND CHAPTER FORTY-THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND NINE RELATIVE TO RECORDING FEES; AND TO FIX THE RECORDING FEES FOR THE REGISTER OF DEEDS OFFICE OF CATAWBA COUNTY.

The General Assembly of North Carolina do enact:

Ch. 43, Public Laws, 1909, amended.

Recording fees on deeds of trust, Catawba County.

SECTION 1. That Chapter forty-three of the Public Laws of one thousand nine hundred and nine, which relates to recording fees on deeds of trust in Catawba County, be amended by striking out the words "eighty cents", where they appear in said Act, and inserting in lieu thereof the words "one dollar".

Registration fees for deeds and other writings.

SEC. 2. That the Register of Deeds for Catawba County shall charge for registering any deed or other writing authorized to be registered by said Register, with certificate of probate or acknowledgement and private examination of a married woman, containing not more than three copy-sheets, one dollar; and for every additional copy-sheet ten cents, except as to registration fees on certain instruments set forth in Sections one and three of this Act.

Registration fees on lien bonds, etc.

SEC. 3. That the fees for registering short form of lien bond, or lien bond and chattel mortgage combined, shall be fifty cents.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of February, 1939.

H. B. 41 **CHAPTER 34**

AN ACT TO AMEND SECTION FOUR THOUSAND ONE HUNDRED AND FIFTY-SIX OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA BY STRIKING OUT SAID SECTION AND SUBSTITUTING A NEW SECTION IN LIEU THEREOF.

The General Assembly of North Carolina do enact:

C. S. 4156, amended.

SECTION 1. That Section four thousand one hundred and fifty-six of the Consolidated Statutes of North Carolina be amended by striking out all of said section and inserting in lieu thereof a new section as follows:

Probate of certain wills outside of N. C. on proof of one witness, validated.

"4156. Local: Validating probate of certain wills. In all cases where wills and testaments were executed prior to the first day of January, one thousand nine hundred and twenty-five, and which appears to have two or more subscribing witnesses thereto, and such wills and testaments were admitted to probate in jurisdictions outside of North Carolina upon the proof of one witness, and such wills, or exemplified copies thereof, were presented to the Clerk of the Superior Court in any county in this State where the makers thereof owned property, and by such clerk recorded in the records of wills for his county, said wills and testaments, or exemplified copies thereof, so recorded, if otherwise sufficient, shall have the effect to pass the title to the real and personal property therein devised and bequeathed, to the same extent and as completely as if the execution of such wills had been proven by two subscribing witnesses thereto in the manner provided by the laws of this State. And where such wills and testaments were duly admitted to probate in jurisdictions outside of North Carolina, upon proof of one witness, and in cases where parties interested desire to have them recorded in this State, where they have not already been so recorded, the Clerk of the Superior Court of any county in North Carolina, when such wills or exemplified copies thereof are duly authenticated and presented to him by parties interested, shall receive and record the same, and if the same are otherwise sufficient such wills shall have the effect to pass the title to all real and personal property therein devised and bequeathed, to the same extent and as completely as if the execution of such wills had been proven by two subscribing witnesses thereto in the manner provided by the laws of this State. This

Clerks of Superior Court authorized to admit for recordation.

Construction and application of Act.

section shall not have the effect to invalidate the title of any person owning any land embraced in the provisions of any such will which was valid prior to the first day of January, one thousand nine hundred and twenty-five. This section shall not apply to suits pending on the first day of January, one thousand nine hundred and twenty-five, and nothing herein shall be construed to prevent such wills from being impeached for fraud. This section shall only apply to Henderson, Transylvania, Halifax, Wake, Cleveland and Lee Counties."

Pending litigation unaffected.

SEC. 2. That this Act shall not affect pending litigations or vested rights.

Conflicting laws repealed.

SEC. 3. That all laws, or clauses of laws, in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1939.

S. B. 117 CHAPTER 35

AN ACT TO AMEND CHAPTER ONE HUNDRED THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE REGARDING ALTERNATE JURORS.

The General Assembly of North Carolina do enact:

Ch. 103, Public Laws, 1931, relative to alternate jurors, amended.

SECTION 1. That Section one of Chapter one hundred three of the Public Laws of one thousand nine hundred thirty-one be, and the same hereby is amended by inserting in the last sentence of the said section, after the word "disqualified" and before the words "he may be discharged", the following: "or by reason of illness or death in his family, or other sufficient reason in the opinion of the court,".

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1939.

H. B. 88 **CHAPTER 36**

AN ACT TO REQUIRE A REPORT OF JUDICIAL SALES AND SALES BY MORTGAGEES AND TRUSTEES TO BE FILED IN THE OFFICE OF THE CLERK OF THE SUPERIOR COURT WITHIN FIVE DAYS FROM THE DATE THEREOF.

The General Assembly of North Carolina do enact:

C. S., Vol. I, 1919, Sec. 2591, amended.

SECTION 1. That Section two thousand five hundred ninety-one of Volume one (one thousand nine hundred nineteen) of the Consolidated Statutes be amended by adding, after the period following the word "days" in line five, the following: "A report of such sale shall be filed in the office of the Clerk of the Superior Court within five days from the date thereof: *Provided*, that failure to file such report prescribed shall not invalidate said sale".

Report of judicial sales, etc. within 5 days.

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1939.

H. B. 174 **CHAPTER 37**

AN ACT TO AMEND SECTION SEVEN OF CHAPTER TWO HUNDRED SIXTY, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE, RELATIVE TO RECORDS OF TAX SALE CERTIFICATES.

The General Assembly of North Carolina do enact:

Ch. 260, Public Laws, 1931, amended, to require records of tax sales to be kept by sheriff or tax collector.

SECTION 1. That Section seven of Chapter two hundred sixty, Public Laws of one thousand nine hundred thirty-one, be amended by striking out in lines fourteen and fifteen the words "certify such book and file the same in the office of the Register of Deeds, and said Register of Deeds shall".

SEC. 2. That said section be further amended by striking out in line twenty, after the words "to the" and before the words "of the", the words "Register of Deeds", and inserting in lieu thereof the words "Sheriff or tax collector". That said section be further amended by striking out in line twenty, after the word "cause" and before the word "upon", the words "the Register of Deeds".

SEC. 3. That said section be further amended by inserting in line twenty-three, after the word "to" and before the word "make", the words "the said Sheriff or tax collector".

Application of Act.

SEC. 4. That this Act shall not apply to Moore, Camden and Hertford Counties.

Conflicting laws repealed.

SEC. 5. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 6. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1939.

H. B. 209 CHAPTER 38

AN ACT PROVIDING FOR THE CARE OF GROUNDS SURROUNDING THE HOME OF NATHANIEL MACON AND ALSO THE GRAVE OF ANNE CARTER LEE IN WARREN COUNTY.

The General Assembly of North Carolina do enact:

Maintenance of grounds at home of Nathaniel Macon and grave of Anne Lee Carter, Warren County, authorized.

SECTION 1. That the Highway and Public Works Commission is hereby authorized and directed through the Highway Supervisor of the Warren County District, to clean off and keep clean the premises and grounds at the old home of Nathaniel Macon, known as "Buck Springs," which are owned by the County of Warren, and also to look after the care and keeping the grounds surrounding the grave of Miss Anne Carter Lee, daughter of General Robert E. Lee, in Warren County.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of February, 1939.

H. B. 145 CHAPTER 39

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED EIGHTY-ONE OF THE CONSOLIDATED STATUTES RELATING TO THE PAYMENT FOR DAMAGE CAUSED BY DOGS TO SHEEP OR OTHER PROPERTY IN WAYNE COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1681, amended.

SECTION 1. That Section one thousand six hundred eighty-one of the Consolidated Statutes be, and the same is hereby amended by adding at the end of said section the following:

Payment of damages by dogs, Wayne County.

"*Provided, however,* that Wayne County shall not be liable for or required to pay damages for personal injuries nor for in-

jury to or destruction of any personal property except for injury to or destruction of sheep and hogs caused by dogs in said county; and *provided further*, that the said County of Wayne shall not be liable for injury to or destruction of sheep and hogs unless the claim is presented to the county auditor, and proof of loss established, within three days after the injury or destruction of the sheep or hogs for which claim is filed."

Pending claims unaffected.

SEC. 2. This Act, however, shall not apply to pending claims for which Wayne County may be liable under the law as it heretofore existed.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

H. B. 176 CHAPTER 40

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED AND FORTY-THREE OF THE CONSOLIDATED STATUTES IN SO FAR AS IT RELATES TO THE TERMS OF THE SUPERIOR COURT OF HERTFORD COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1443, amended.

SECTION 1. That Section one thousand four hundred and forty-three (1443) of the Consolidated Statutes of North Carolina be, and the same is hereby amended by striking out all of the paragraph relating to Hertford County under the subdivision "Third District", and inserting in lieu thereof the following:

Terms of Superior Court, Hertford County.

"Hertford—First Monday before the first Monday in March; sixth Monday after the first Monday in March, to continue for two weeks, for the trial of civil cases and only such criminals as are confined in the common jail or otherwise imprisoned; fifth Monday before the first Monday in September; sixth Monday after the first Monday in September, to continue for two weeks."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

H. B. 187 **CHAPTER 41**

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF A COUNTY COURT FOR YADKIN COUNTY WITH CRIMINAL JURISDICTION UNDER THE PROVISIONS OF CHAPTER EIGHTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-ONE.

The General Assembly of North Carolina do enact:

Ch. 89, Public Laws, 1931, amended.

Establishment of County Criminal Court, Yadkin County.

SECTION 1. That Section twenty-one of Chapter eighty-nine, Public Laws of one thousand nine hundred and thirty-one, be and the same is hereby amended by striking out the word "Yadkin" in the last line of said Section, it being the intent and purpose of this Act to place Yadkin County under the provisions of Chapter eighty-nine, Public Laws, one thousand nine hundred and thirty-one, authorizing the Boards of Commissioners to establish County Courts with criminal jurisdiction.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

H. B. 276 **CHAPTER 42**

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED FORTY-THREE OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO THE TERMS OF SUPERIOR COURT FOR GUILFORD COUNTY.

The General Assembly of North Carolina do enact:

C. S., 1919, sec. 1443, amended.

Additional terms of Criminal Court, Guilford County.

SECTION 1. That Section one thousand four hundred forty-three of the Consolidated Statutes of North Carolina, one thousand nine hundred nineteen, as heretofore amended, be further amended as follows: In addition to the terms of court now provided by law to be held in Guilford County, the following additional terms of Superior Court for the trial of criminal cases only in Guilford County shall be held as follows: Ninth Monday before the first Monday in March, one week; third Monday after the first Monday in March, one week; twelfth Monday after the first Monday in March, one week; seventh Monday before the first Monday in September, one week; sixth Monday after the first Monday in September, one week; ninth Monday after the first Monday in September, one week.

SEC. 2. That all laws and clauses of laws in conflict with this amendment are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall take effect and be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

H. B. 288 CHAPTER 43

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED FORTY-THREE OF THE CONSOLIDATED STATUTES RELATIVE TO THE COURTS OF PITT COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand four hundred forty-three of the Consolidated Statutes relative to the Courts of Pitt County be amended as follows: After the words "Second Monday after the First Monday in March to continue for two weeks" insert "for the trial of Civil Cases only". C. S. 1443, amended, as to terms of Superior Court, Pitt County.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

H. B. 326 CHAPTER 44

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED AND FORTY-THREE OF VOLUME THREE OF THE CONSOLIDATED STATUTES RELATING TO THE COURTS IN CLAY COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand four hundred and forty-three of Volume Three of the Consolidated Statutes, as amended by Chapter two hundred forty-five, Public Laws, one thousand nine hundred and twenty-seven, and Chapter one hundred and sixty-two of the Public Laws of one thousand nine hundred and thirty-seven, be and the same is hereby amended by striking out all of the paragraph relating to Clay County under the division relating to the Twentieth District and inserting in lieu thereof the following: C. S., Vol. III, sec. 1443, amended.

"Clay—Eighth Monday after the first Monday in March, and fourth Monday after the first Monday in September." Terms of Superior Court, Clay County.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Effective date.

SEC. 3. That this Act shall be in full force and effect from and after the first day of July, one thousand nine hundred and thirty-nine.

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

H. B. 330 CHAPTER 45

AN ACT TO EXEMPT HALIFAX AND MARTIN COUNTIES FROM THE OPERATION OF SECTION THREE THOUSAND THREE HUNDRED SIXTEEN OF THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED NINETEEN.

The General Assembly of North Carolina do enact:

C. S. 3316, relating to deeds of easement, amended, to exempt Halifax and Martin Counties.

SECTION 1. That Section three thousand three hundred sixteen of the Consolidated Statutes of one thousand nine hundred nineteen be, and the same is hereby amended by adding in the last sentence thereof after the word "Surry" and before the word "and", a comma and the words "Halifax, Martin".

Construction of Act.

SEC. 2. That nothing in this Act shall be construed to prevent the application of Section three thousand three hundred nine of the Consolidated Statutes of one thousand nine hundred nineteen referring to the registration of conveyances of land.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

H. B. 355 CHAPTER 46

AN ACT TO AMEND SECTION ONE THOUSAND TWO HUNDRED FORTY-FOUR OF THE CONSOLIDATED STATUTES, SO AS TO ALLOW THE CLERK OF THE SUPERIOR COURT OF NASH COUNTY TO APPORTION THE COST IN TAX FORECLOSURE SUITS IN NASH COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1244, amended.

SECTION 1. That Section one thousand two hundred forty-four of the Consolidated Statutes of North Carolina be, and it

is hereby amended, by adding after Subsection nine the figures and words as follows:

"10. Tax foreclosure suits."

Apportionment of cost in tax foreclosure suits, Nash County.

SEC. 2. That this amendment shall apply only to Nash County and that part of the City of Rocky Mount in Nash County.

SEC. 3. That all laws and clauses of laws in conflict with any of the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 4. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

S. B. 70 **CHAPTER 47**

AN ACT TO AMEND SECTION FOUR THOUSAND FIVE HUNDRED SEVENTY-NINE OF THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED NINETEEN TO PROHIBIT SHERIFFS, DEPUTY SHERIFFS, CONSTABLES, JAILERS OR RELATIVES OF THE SAME, FROM GOING ON BAIL OF PRISONERS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section four thousand five hundred and seventy-nine of the Consolidated Statutes of one thousand nine hundred and nineteen be amended by adding the following:

"No Sheriff, deputy sheriff, constable, jailer or assistant jailer or the wife of any Sheriff, deputy sheriff, constable, jailer or assistant jailer shall in any case become bail for any prisoner for money or property; nor shall any Sheriff, deputy sheriff, constable, jailer or assistant jailer, or their wives become bail as agents for any bonding company or professional bondsmen".

C. S., 1919, sec. 4579, amended, to prohibit Deputy Sheriffs, Constables, etc. from going on bail of prisoners.

SEC. 2. Any violation of this Act shall constitute a misdemeanor punishable by a fine or by imprisonment in the discretion of the court, or by both such fine and imprisonment.

Violations made misdemeanor.

SEC. 3. Provided that the provisions of this Act shall not apply to Caswell, Currituck, Dare, Granville, Greene, Hertford, Hyde, Lenoir, Martin, Moore, Nash, Pamlico, Perquimans, Person, Pitt, Rockingham, Stokes, Transylvania and Warren Counties.

Counties exempt from application of Act.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 5. That this Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1939.

S. B. 89 **CHAPTER 48**

AN ACT TO PROVIDE FOR THE DISPOSITION OF MOTIONS WHEREIN UNDER THE PRESENT LAW THE JUDGE IS DISQUALIFIED.

The General Assembly of North Carolina do enact:

Reference of motions to Resident Judge of adjoining district.

SECTION 1. Whenever the Judge before whom any motion is made, either at term time or at chambers, shall disqualify himself from determining it, he may in his discretion refer the same for disposition to the Resident Judge of any adjoining district, who shall have full power and authority to hear and determine the cause in the same manner as if he were the Presiding Judge of the district in which the cause arose.

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1939.

H. B. 36 **CHAPTER 49**

AN ACT TO AMEND SECTION FOUR HUNDRED EIGHTY-SEVEN OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO SERVICE OF SUMMONS BY PUBLICATION AND PRESCRIBING THE TIME ALLOWED DEFENDANT TO ANSWER OR DEMUR.

The General Assembly of North Carolina do enact:

C. S., 1919, sec. 487, amended, to prescribe time allowed for answer or demurrer.

SECTION 1. That Section four hundred eighty-seven of the Consolidated Statutes of one thousand nine hundred nineteen be, and the same is hereby amended by substituting a semicolon at the end of said Act in place of the period and adding thereto the following provision: "and the defendant shall have twenty days thereafter in civil actions and ten days in special proceedings in which to answer or demur".

C. S., 1919, sec. 753, amended.

SEC. 2. That Section seven hundred fifty-three of the Consolidated Statutes of one thousand nine hundred nineteen be, and the same is hereby amended by striking out all of said Section except the first sentence of said Act and adding thereto after the period at the end of the first sentence of said Act the following provision: "The summons shall command the officer to summons the defendant or defendants to appear and answer the complaint, or petition, of the plaintiff within ten days after

Issuance of summons in special proceedings.

its service upon the defendant or defendants, and must contain a notice stating in substance that if the defendant or defendants fail to answer the complaint, or petition, within the time specified, plaintiff will apply to the court for the relief demanded in the complaint, or petition. The summons must run in the name of the State, be signed by the Clerk of the Superior Court having jurisdiction in the special proceeding, and be directed to the Sheriff or other proper officers of the county, or counties, in which the defendant, or defendants, or any of them reside or may be found, and must be returnable before the Clerk. The Clerk shall indicate on the summons by appropriate words that the summons is issued in a special proceeding and not in a civil action. The manner of service, whether by the Sheriff or by publication, shall be as is prescribed for summons in civil actions by Section four hundred and seventy-six of the Consolidated Statutes of one thousand nine hundred nineteen: *Provided, however*, that in special proceedings before the Clerk, the plaintiff or petitioner shall not be required to serve a copy of the petition or complaint upon each of the defendants, as required in civil actions, but in lieu thereof such petitioner or petitioners may deliver to the Clerk at the time of the issuance of the summons copies (not to exceed three) of the petition or complaint for the use of the defendants".

Form and contents.

Service of summons.

SEC. 3. That this Act shall not affect pending litigation.

Pending litigation unaffected.

SEC. 4. That all laws and clauses of laws in conflict herewith are hereby repealed.

Conflicting laws repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1939.

H. B. 89 **CHAPTER 50**

AN ACT TO AMEND SECTION FIVE THOUSAND AND FORTY-FOUR OF VOLUME TWO (ONE THOUSAND NINE HUNDRED NINETEEN) OF THE CONSOLIDATED STATUTES RELATIVE TO COURT COSTS IN JUVENILE COURTS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section five thousand and forty-four of Volume Two (one thousand nine hundred nineteen) of the Consolidated Statutes be amended by striking out in line fourteen, the comma following the word "expenses" and the following: "when approved by the Judge of the Superior Court,".

C. S., Vol. II, 1919, sec. 5044, amended, to dispense with approval of certain costs in juvenile cases, by judge.

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of February, 1939.

S. B. 43 **CHAPTER 51**

AN ACT TO AUTHORIZE THE UTILITIES COMMISSIONER TO PROTECT THE UNITED STATES FROM CLAIMS FOR DAMAGES TO OYSTER BEDS IN NEW RIVER UNDER CERTAIN CONDITIONS.

Preamble: Appropriation for dredging of channel in New River.

Whereas, the United States of America has heretofore made an appropriation by Act of Congress providing for the dredging of a channel ten feet deep and ninety feet wide in New River between the Inland Waterway and Jacksonville; and

Rights-of-way and spoil disposal areas.

Whereas, the said appropriation and the beginning of the work of dredging said channel is conditioned upon local interest furnishing free of costs to the United States rights-of-way and spoil-disposal areas for initial work and for maintenance as may be necessary, and giving assurance satisfactory to the Secretary of War to hold and save the United States free from damages to oyster beds; and

Difficulty in obtaining releases in connection with certain private interests.

Whereas, citizens of North Carolina interested in the construction of the said channel have heretofore secured releases from all persons owning oyster beds in New River in favor of the United States, whereby all claims were waived for damages to oyster beds between Sneads Ferry and the Inland Waterway, except from not over ten persons who may be interested in the ownership of some oyster beds, said releases not having been obtained on account of inability to obtain the names and addresses of the owners, or because the owners were incapable of executing legal releases, or for other like reasons; and

Protection against liability for damages required by Federal Government.

Whereas, it is necessary to furnish assurance to the United States that it will be protected against any liability from such owners of oyster beds who have not released and waived any claims therefor, before the United States would begin the construction of the said channel; and

Whereas, none of the said oyster beds in said river are now being used commercially for the cultivation of oysters, and it is not contemplated that the construction of said channel will cause any financial loss to any of the owners thereof; and

Whereas, it is deemed advisable to authorize the Utilities Commissioner to enter into an obligation and engagement with the United States or Secretary of War to pay such claims or liability which may arise to owners of oyster beds who have not executed waivers or releases, such liability on the part of the State not to exceed five thousand dollars ($5,000) in total amount. Advisability of executing agreement of indemnity.

The General Assembly of North Carolina do enact:

SECTION 1. That the Utilities Commissioner be and hereby is authorized and empowered to enter into a contract with the United States or the Secretary of War on behalf of the State of North Carolina, by the terms of which it shall be agreed that the State of North Carolina will save the United States free from liability for damages to oyster beds in New River arising from the dredging and maintenance of a channel ten feet deep and ninety feet wide therein, between the Inland Waterway and Jacksonville: *Provided,* the liability of the State of North Carolina under such contract shall not exceed the total sum of five thousand dollars ($5,000). Utilities Commissioner authorized to enter agreement of indemnity. Limitation.

SEC. 2. That enactment of this statute shall not be treated or considered as any admission on the part of the State that the owner of such oyster beds who have not heretofore executed waivers or releases shall be entitled to any damages by reason of the dredging and maintenance of the said channel, and no payment shall be made on account of such claims unless and until the owners of such oyster beds shall show that there has been sustained actual damages to such oyster beds on account of the dredging and maintenance of said channel. Application of Act.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1939.

S. B. 60 **CHAPTER 52**

AN ACT TO AMEND CHAPTER ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SIX, EXTRA SESSION, THE SAME BEING "AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND ADMINISTRATION OF UNEMPLOYMENT COMPENSATION."

The General Assembly of North Carolina do enact:

Sec. 5, Ch. 1, Public Laws, Extra Session, 1936, amended, as to disqualifications for benefits.

SECTION 1. That Section five of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby amended by adding the following subsection: "(g) For any week after June thirtieth, one thousand nine hundred thirty-nine with respect to which he shall have or assert any right to unemployment benefits under an unemployment compensation law of either the Federal or a State Government, other than the State of North Carolina."

Sec. 8, subsection (a) amended, as to its application.

SEC. 2. That Section eight, Subsection (a) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby further amended by changing the period after the word "year" at the end of said section to a semicolon, and by adding the following words: "*Provided, however*, that on and after July first, one thousand nine hundred thirty-nine, this section shall not be construed to apply to any part of the business of an employer as may come within the terms of Section one (a) of the Federal Railroad Unemployment Insurance Act."

Sec. 8, Subsection (b), as to termination of coverage, amended to add exception provided in 8 (a).

SEC. 3. That Section eight, Subsection (b) of said Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby further amended by changing the word "subsection" in the first line of said section to "subsection (s)" and by adding after said word the following: "(a) and."

Sec. 9, amended.

SEC. 4. That Section nine of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby amended by adding the following subsection to said Section nine:

Commission empowered to requisition funds for transfer to Railroad Unemployment Insurance Account.

"9 (e) Notwithstanding any requirements of the foregoing subsections, the Commission shall further have the power to requisition monies from this State's account in the Unemployment Trust Fund in the Treasury of the United States, established and maintained pursuant to Section nine hundred four of the Social Security Act, as amended, in such amount as is hereafter provided and which is hereby appropriated for the purpose

of effecting transfer of such funds to the Railroad Unemployment Insurance Account established and maintained pursuant to Section ten of the Railroad Unemployment Insurance Act. Upon receipt by the State Treasurer of such funds, requisitioned pursuant to this section, the State Auditor is authorized and directed to issue warrants upon the State Treasurer for the payment of such amounts as hereinafter provided to the Secretary of the Treasury of the United States for deposit in the Railroad Unemployment Insurance Account. On or after July first, one thousand nine hundred thirty-nine or thirty days after the adjournment of this session of the General Assembly, whichever is the later, the Commission shall have the power and authority to requisition from this State's Unemployment Compensation Fund an amount hereinafter referred to as the preliminary amount; and shall have the power, on or after January first, one thousand nine hundred forty, to requisition from this State's Unemployment Compensation Fund an additional amount hereinafter referred to as the liquidating amount. The Commission shall determine both such amounts after consultation with the Railroad Retirement Board and the Social Security Board. The preliminary amount shall consist of (1) the proportion of the balance in the pooled account in the Unemployment Compensation Fund of this State as of June thirtieth, one thousand nine hundred thirty-nine which the total amount of contributions collected from employers (as defined by Section one (a) of the Railroad Unemployment Insurance Act) prior to July first, one thousand nine hundred thirty-nine, and credited to such pooled account bears to all such contributions theretofore collected from all employers subject to this Act and credited to the pooled account, plus (2) the amounts remaining as balances in the reserve accounts of employers (as defined by Section one (a) of the Railroad Unemployment Insurance Act) as of June thirtieth, one thousand nine hundred thirty-nine. For purposes of this Act, a balance in any account taken as of a certain date shall take into consideration all contributions paid into the account on or before such date and all liabilities (whether paid or unpaid) for benefits payable and/or for refunds from such account accruing on or before such date. The liquidating amount shall consist of the total amount of contributions collected from employers (as defined in Section one (a) of the Railroad Unemployment Insurance Act) pursuant to the provisions of this Act during the period July first, one thousand nine hundred thirty-nine, to December thirty-first, one thousand nine hundred thirty-nine, inclusive. *Provided, however*, expenditures of such monies shall not be subject to approval of the Budget Bureau or any provisions of law requiring specific appropriations or other formal release by State officers of money in their custody."

Requisitioning of "preliminary" and "liquidating" amounts.

"Preliminary" amount defined.

"Liquidating" amount defined.

SEC. 5. That Section eleven, Subsection (k) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby amended by adding at the end

Sec. 11, subsection (k), amended, to make records available to the Railroad Retirement Board.

of the first paragraph the following: "The Commission shall further make its records available to the Railroad Retirement Board, created by the Railroad Retirement Act and the Railroad Unemployment Insurance Act, and shall furnish to the Railroad Retirement Board at the expense of the Railroad Retirement Board, such copies thereof as the Board shall deem necessary for its purposes in accordance with the provisions of Section three hundred three (c) of the Social Security Act as amended."

Sec. 19, subsection (e), defining "Employing unit," amended.

SEC. 6. That Section nineteen, Subsection (e) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby amended by adding the following at the end of said subsection: "*Provided, however*, that nothing herein, on or after July first, one thousand nine hundred thirty-nine, shall be construed to apply to that part of the business of such 'employers' as may come within the meaning of that term as it is defined in Section one (a) of the Railroad Unemployment Insurance Act."

Sec. 19, subsection (g), defining "Employment," amended.

SEC. 7. That Section nineteen, Subsection (g) Paragraph one of said Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby amended by inserting after the comma following the words "interstate commerce" in said subsection: "except 'employment' as defined in the Railroad Retirement Act and the Railroad Unemployment Insurance Act."

Ch. 363, Public Laws, 1937, amended.

Administration of Act, except as provided, not affected by enactment of Railroad Retirement, etc. Acts.

SEC. 8. That Section one of Chapter three hundred sixty-three of the Public Laws of one thousand nine hundred thirty-seven, which Chapter further amended Section twenty-one of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," by adding an additional section to be known as Section twenty-one (a), be amended as follows: "That the first paragraph of said Section twenty-one (a) be, and the same is hereby amended by adding the following to the end of said paragraph: 'That the enactment by the Congress of the United States of the Railroad Retirement Act and the Railroad Unemployment Insurance Act shall in no way effect the administration of this law except as herein expressly provided'."

Conflicting laws repealed.

SEC. 9. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 10. This Act shall be in effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1939.

S. B. 158 **CHAPTER 53**

AN ACT TO AMEND CHAPTER NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-ONE RELATING TO THE PUNISHMENT FOR OBTAINING ENTERTAINMENT AT HOTELS AND BOARDING HOUSES SO AS TO MAKE THE SAME APPLY TO ROCKINGHAM COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one of Chapter nine of the Public Laws of one thousand nine hundred and thirty-one be amended by inserting a comma in the place of a period after the word "County" in line five thereof, and adding the words "Rockingham County" followed by a period.

Ch. 9, Public Laws, 1931, amended, to apply to Rockingham County.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1939.

H. B. 293 **CHAPTER 54**

AN ACT TO AMEND CHAPTER TWO HUNDRED FORTY-TWO OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, PROVIDING EDUCATIONAL ADVANTAGES IN STATE INSTITUTIONS TO WORLD WAR ORPHANS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one of Chapter two hundred forty-two of the Public Laws of one thousand nine hundred thirty-seven of the regular session be, and the same is hereby amended by inserting after the comma in line seven thereof the following: "or any child whose father was a member of the armed forces of the United States of America during the aforesaid period and who has died prior to one thousand nine hundred twenty-five as the direct result of injuries, wounds or other illness contracted during said period of service."

Ch. 242, Public Laws, 1937, amended, as to eligibility of World War orphans for free tuition.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1939.

H. B. 327 **CHAPTER 55**

AN ACT TO AMEND CHAPTER FORTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, RELATING TO PUBLIC DRUNKENNESS IN CHEROKEE COUNTY, SO AS TO MAKE THE SAID SECTION APPLICABLE TO JACKSON COUNTY.

The General Assembly of North Carolina do enact:

Ch. 49, Public Laws, 1935, amended.

Penalty for public drunkenness, Jackson County.

SECTION 1. That Chapter forty-nine of the Public Laws of session of one thousand nine hundred thirty-five, be, and the same is hereby, amended by inserting a comma and the word "Jackson" between the word "Cherokee" and the word "and," line two of Section four of said Act.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

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

In the General Assembly read three times and ratified, this the 24th day of February, 1939.

S. B. 38 **CHAPTER 56**

AN ACT TO AMEND SECTION FOUR THOUSAND FOUR HUNDRED AND FORTY-FIVE OF CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO SEPARATION OF AN INFANT UNDER SIX MONTHS OF AGE FROM MOTHER.

The General Assembly of North Carolina do enact:

C. S. 4445, amended, to require investigation and report by County Supt. of Public Welfare.

SECTION 1. That Section four thousand four hundred and forty-five of Consolidated Statutes of North Carolina be amended by striking out the period in line nine, after the word "consent," and inserting in lieu thereof a semicolon and the following: "*Provided,* that in every instance the County Superintendent of Public Welfare shall have made proper investigation of the condition and situation of said mother and child and shall make a written report of same to the Clerk of Court and the County Health Officer before they take action."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

S. B. 131 **CHAPTER 57**

AN ACT TO AMEND SECTION ONE THOUSAND ONE HUNDRED AND EIGHTY-ONE RELATING TO THE DOMESTICATION TAX ON FOREIGN CORPORATIONS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand one hundred and eighty-one of the Consolidated Statutes of North Carolina be amended by inserting after the word "dollars" and before the word "such" in line thirteen the following: C. S. 1181, amended, as to domestication tax on foreign corporations.

"Provided that the tax upon shares of stock without nominal or par value shall be the same as if each share of stock had a par or face value of one hundred dollars."

SEC. 2. That all acts of the Secretary of State domesticating foreign corporations without nominal or par value shares of stock and taxing the same as provided in this Act are hereby validated.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

S. B. 155 **CHAPTER 58**

AN ACT TO AUTHORIZE THE USE OF LAKE WACCAMAW IN COLUMBUS COUNTY AND SINGLETARY LAKE AND JONES LAKE IN BLADEN COUNTY, BY THE FEDERAL GOVERNMENT AS A HYDROPLANE BASE.

WHEREAS, the State of North Carolina owns Lake Waccamaw and the land extending to the high water mark of said lake in Columbus County and also owns Singletary Lake and Jones Lake in Bladen County; and, Preamble: State ownership of certain lakes, Columbus and Bladen Counties.

WHEREAS, the said lake is under the administration of the State Department of Conservation and Development; and,

WHEREAS, the United States Government is entering into or about to enter into a greatly expanded National Defense program: *Now, therefore,* National Defense Program of United States.

The General Assembly of North Carolina do enact:

SECTION 1. That the State Department of Conservation and Development is hereby empowered, authorized and instructed to enter into an agreement with the United States War Depart- Agreements with War Department, etc. for use of lakes as hydroplane bases authorized.

ment, Navy Department or other agencies of the Federal Government, when so requested, for the use of Lake Waccamaw, Singletary Lake and Jones Lake, or so much thereof as may be required, as Hydroplane Bases, for a period and on terms to be agreed upon by said departments or agencies representing the State and Federal Governments.

SEC. 2. Acceptance of authority granted in this Act shall extend only through April first, one thousand nine hundred forty-one.

Conflicting laws repealed.

SEC. 3. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

H. B. 191 CHAPTER 59

AN ACT FIXING THE TERMS OF COURT IN CURRITUCK COUNTY.

The General Assembly of North Carolina do enact:

C. S., Vol. 3, 1924, Sec. 1443, amended.

SECTION 1. That Section one thousand four hundred forty-three of the Consolidated Statutes, Volume three (one thousand nine hundred twenty-four), be, and the same is hereby amended by striking out all of lines eleven and twelve thereof, and inserting in lieu thereof the following:

Terms of Superior Court, Currituck County.

"Currituck—Third Monday in July, for civil cases only; first Monday in March, first Monday in September."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

H. B. 347 **CHAPTER 60**

AN ACT TO AMEND SECTION THREE THOUSAND FOUR HUNDRED TWENTY OF CONSOLIDATED STATUTES OF NORTH CAROLINA PROVIDING FOR CAPITALIZATION OF A CORPORATION ORGANIZED TO OPERATE A RAILROAD UNDER LEASE.

The General Assembly of North Carolina do enact:

SECTION 1. That Section three thousand four hundred twenty of the Consolidated Statutes of one thousand nine hundred nineteen, as amended, be amended by adding at the end of said section the following: C. S., 1919, Sec. 3420, amended.

"*Provided further*, that the capital stock provision or provisions of this section shall not apply to any railroad corporation chartered for the purpose of leasing a railroad already in existence and in operation, and such railroad company so chartered shall have a paid-in capital stock of not less than five thousand dollars ($5,000.00)." Capitalization of corporation organized to operate existing railroad under lease.

SEC. 2. This Act shall be in force from and after its ratification.

SEC. 3. All laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

H. B. 348 **CHAPTER 61**

AN ACT TO AMEND CHAPTER TWO HUNDRED FORTY-NINE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-FIVE, THE SAME BEING AN ACT PROHIBITING TRANSFERS AND ASSIGNMENTS OF CLAIMS AGAINST THE STATE BEFORE THE AUDITING AND ALLOWANCE OF SUCH CLAIMS AND THE ISSUANCE OF WARRANTS THEREFOR.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter two hundred forty-nine of the Public Laws of one thousand nine hundred twenty-five be and the same is hereby amended by adding after the amendment thereto made by Chapter nineteen, of the Public Laws of one thousand nine hundred thirty-five, the following: Ch. 249, Public Laws, 1925, amended.

"*Provided, further*, that employees of the State or of any of its institutions, departments, bureaus or commissions who are members of the State Employees Credit Union may in writing au- Assignment of salaries by members of State Employees Credit Union.

thorize any periodical payment or obligation to such credit union to be deducted from their salaries or wages as such employee, and such deductions shall be made and paid to said credit union as and when said salaries and wages are payable."

SEC. 2. That this Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

H. B. 403 CHAPTER 62

AN ACT TO AMEND CHAPTER THREE HUNDRED SEVENTY-NINE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, SO AS TO MAKE CATAWBA COUNTY PARTIALLY SUBJECT TO SECTION TWO OF SAID CHAPTER.

The General Assembly of North Carolina do enact:

Ch. 379, Public Laws, 1935, amended.

SECTION 1. That Section two, Chapter three hundred seventy-nine, Public Laws of one thousand nine hundred thirty-five, be, and the same is hereby, amended by adding at the end of said section the following:

Advance court costs, Superior Court, Catawba County.

"*Provided*, the provisions of this section, (which is Section three thousand nine hundred four (c) of the North Carolina Code of one thousand nine hundred thirty-five, Michie) shall, as to actions begun in the Superior Court, apply to Catawba County."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

S. B. 115 CHAPTER 63

AN ACT TO AMEND CHAPTER TWO HUNDRED AND SEVENTY-SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-THREE, RELATING TO REMOVAL OF CASES IN COURTS OF JUSTICES OF PEACE.

Ch. 277, Public Laws, 1933, amended, as to removal of J. P. cases in Lenoir and Cleveland Counties.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one of Chapter two hundred and

seventy-seven of the Public Laws of one thousand nine hundred and thirty-three be, and the same is hereby amended by striking out all of line five thereof and inserting in its place and stead the words "to the Counties of Mecklenburg, Lenoir and Cleveland."

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1939.

H. B. 5 **CHAPTER 64**

AN ACT TO AMEND CHAPTER ONE HUNDRED NINETY-FOUR OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-NINE, AS AMENDED BY CHAPTER THREE HUNDRED OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, KNOWN AS THE "PURE SEED LAW."

The General Assembly of North Carolina do enact:

SECTION 1. That Section seventeen of Chapter one hundred ninety-four of the Public Laws of one thousand nine hundred and twenty-nine as amended by Chapter three hundred of the Public Laws of one thousand nine hundred thirty-seven, be amended by adding at the end thereof the following: "Each box or container of packet or package vegetable or flower seeds offered or exposed for sale shall have attached a one dollar revenue stamp on each box or container consisting of not more than forty-eight dozen five, ten, twenty cent packets or packages, or fraction thereof; said packets or packages shall be sealed. Said revenue stamp shall be purchased from the Department of Agriculture and shall expire with the calendar year for which issued: *Provided,* that no seed dealer's license shall be required of any person, firm or corporation offering or exposing for sale only packet or package vegetable or flower seeds as described herein. Ch. 194, Public Laws, 1929, amended. Revenue stamps for containers of vegetable or flower seeds.

Any person, firm or corporation at a permanent location offering or exposing for sale at retail, bulk seeds shall pay an annual retail seed dealer's license tax of one dollar on January the first of each year if the sales of such bulk seeds are not to be in excess of one hundred dollars during the calendar year for which the one dollar license is obtained. If such sales of bulk seeds shall exceed the amount of one hundred dollars during said calendar year, the retail seed dealer's license tax of ten dollars shall become due and payable, credit to be given for the one dollar license already paid. Retail seed dealer's license tax.

Nothing in this Act shall prohibit local merchants from buying and selling local grain for feed purposes." Exemptions.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Refunds.

SEC. 3. That this Act shall be in full force and effect from and after its ratification, and the Department of Agriculture is hereby authorized to make refunds of one thousand nine hundred and thirty-nine retail seed dealer's licenses in cases where the provisions of this Act apply.

In the General Assembly read three times and ratified, this the 1st day of March, 1939.

H. B. 18 CHAPTER 65

AN ACT TO PROVIDE GRADUATE AND PROFESSIONAL COURSES FOR THE NEGROES OF NORTH CAROLINA.

Preamble: Graduate and professional courses for negroes.

WHEREAS, the number of negroes in North Carolina who desire graduate and professional courses is increasing; and

WHEREAS, it is the duty of the State of North Carolina to provide for such needs: *Now, therefore,*

The General Assembly of North Carolina do enact:

Board of Trustees, N. C. College for Negroes, authorized to establish graduate courses.

SECTION 1. That the Board of Trustees of the North Carolina College for Negroes is hereby authorized and empowered to establish from time to time such graduate courses in the Liberal Arts field as the demand may warrant, and the funds of the said North Carolina College for Negroes justify. That such courses so established must be standard.

Establishment of professional courses.

SEC. 2. The Board of Trustees of the North Carolina College for Negroes is authorized and empowered to establish Departments of Law, Pharmacy and Library Science at the above-named institution whenever there are applicants desirous of such courses. That said Board of Trustees of the North Carolina College for Negroes may add other professional courses from time to time as the need for the same is shown, and the funds of the State will justify.

Specialized training at A. & T. College.

And the Board of Trustees of the Negro Agricultural and Technical College at Greensboro may add graduate and professional courses in agricultural and technical lines as the need for same is shown and the funds of the State will justify, and to establish suitable departments therein.

Payment of extra expense of attending graduate and professional schools outside State.

SEC. 3. In the event there are negroes resident in the State properly qualified who can certify that they have been duly admitted to any reputable graduate or professional college and said graduate or professional courses are not being offered at the

North Carolina College for Negroes, then the Board of Trustees of the North Carolina College for Negreos when said certification has been presented to them by the President and Faculty of the North Carolina College for Negroes, may pay tuition and other expenses for said student or students at such recognized college in such amount as may be deemed reasonably necessary to compensate said resident student for the additional expense of attending a graduate or professional school outside of North Carolina, and the Budget Commission may upon such presentation reimburse the North Carolina College for Negroes the money so advanced. It is further provided that the student applying for such admission must furnish proof that he or she has been duly admitted to said recognized professional college. In the case of agricultural or technical subjects such students desiring graduate courses should apply to the Agricultural and Technical College at Greensboro, North Carolina. The general provisions covering students in the Liberal Arts field as stated in this section shall apply. In no event shall there be any duplication of courses in the two institutions.

Said Boards of Trustees are authorized, upon satisfactory completion of prescribed courses, to give appropriate degrees.

State Supt. Public Instruction made ex-officio member of Boards of Trustees negro institutions.

SEC. 4. It is further stipulated that the Superintendent of Public Instruction for North Carolina shall be a member ex officio of the Boards of Trustees of the North Carolina College for Negroes and Agricultural and Technical College at Greensboro, and shall advise with the Boards of Trustees of said Colleges upon the courses to be offered, and the certification of students to other colleges. In case of needless duplication of graduate or professional courses in either college, the Superintendent of Public Instruction shall be charged with the duty of reporting the same to the Board of Trustees of either institution, and the same shall be remedied. In case of failure to remedy the same, he shall report such failure to the Budget Bureau which will have the power and authority in its judgment to withhold any part of the appropriation from the institution so offending until said duplication is discontinued.

Duties.

SEC. 5. That the Board of Trustees of the North Carolina College for Negroes and the Trustees of the Agricultural and Technical College, in the event that the budget of the institutions will not permit this Act to be carried out on account of lack of funds, shall present the situation to the Assistant Director of the Budget, the Governor of North Carolina and the Council of State; and they are hereby empowered to provide such funds as may be necessary to carry out the purposes of the same.

Director of Budget, Governor and Council of State authorized to provide funds.

SEC. 6. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1939.

H. B. 151 **CHAPTER 66**

AN ACT TO AMEND ARTICLE SIX OF CHAPTER ONE HUNDRED AND THREE OF THE CONSOLIDATED STATUTES (ONE THOUSAND NINE HUNDRED TWENTY-FOUR) RELATIVE TO THE COMMITMENT OF PATIENTS TO THE CRIMINAL INSANE HOSPITALS OF THIS STATE.

The General Assembly of North Carolina do enact:

C. S., 1924, Ch. 103, Art. 6, amended as to commitment of insane persons to criminal insane hospitals.

SECTION 1. That Article six of Chapter one hundred and three of the Consolidated Statutes, Volume Three (one thousand nine hundred twenty-four), be amended by adding a new section to be designated as six thousand two hundred forty-three (c), to read as follows:

"6243 (c). No court inferior to the Superior Court of this State shall have authority to send or commit any insane person to any State hospital for the criminal insane, as provided in this article."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1939.

H. B. 352 **CHAPTER 67**

AN ACT TO AUTHORIZE THE ISSUANCE OF BONDS OF THE STATE FOR REIMBURSING THE STATE TREASURY FOR ADVANCES MADE THEREFROM FOR PERMANENT IMPROVEMENTS AT CERTAIN STATE INSTITUTIONS AND FOR PURCHASING SCHOOL BOOKS

Preamble: Bond issue of $500,000 for certain State hospitals, authorized under Ch. 439, Public Laws, 1935.

WHEREAS, by Chapter four hundred thirty-nine of the Public Laws of one thousand nine hundred thirty-five the issuance of bonds of the State to an amount not exceeding five hundred thousand dollars is authorized, subject to the approval of the Governor and Council of State, for the purpose of permanently enlarging the State Hospital at Goldsboro, the State Hospital at Raleigh, the State Hospital at Morganton, and the Caswell Training School at Kinston; and no bonds have been issued under the authority of said Chapter four hundred thirty-nine of the Public Laws of one thousand nine hundred thirty-five and the sum of five hundred thousand dollars has heretofore been advanced from funds on hand in the State Treasury, with the approval of the

Amount of issue advanced from State Treasury.

Governor and Council of State, for said improvements, and it is proper that the State Treasury be reimbursed for the monies so advanced; and

$250,000 bond issue authorized for Tubercular Sanatorium of Western North Carolina, under Ch. 91, Public Laws, 1935.

WHEREAS, by Chapter ninety-one of the Public Laws of one thousand nine hundred thirty-five, the Western North Carolina Sanatorium for the Treatment of Tuberculosis was established, and by Section fourteen of said Chapter ninety-one of the Public Laws of one thousand nine hundred thirty-five the issuance of bonds of the State in an amount not exceeding two hundred fifty thousand dollars is authorized for the purpose of securing a site or sites and purchasing, renovating, remodeling or erecting necessary buildings for the Western North Carolina Sanatorium for the Treatment of Tuberculosis; and no bonds have been issued under the authority of said Chapter ninety-one of the Public Laws of one thousand nine hundred thirty-five and the sum of two hundred fifty thousand dollars has heretofore been advanced from funds on hand in the State Treasury, with the approval of the Governor and Council of State, for the above-mentioned improvements, and it is proper that the State Treasury be reimbursed for the monies so advanced; and

Advanced from State Treasury.

$1,500,000 bond issue authorized for purchase of free basal textbooks under Ch. 169, Public Laws, 1937.

WHEREAS, by Chapter one hundred sixty-nine of the Public Laws of one thousand nine hundred thirty-seven the issuance of bonds of the State to an amount not exceeding one million, five hundred thousand dollars was authorized, subject to the approval of the Governor and Council of State, for the purpose of purchasing school books and carrying out the provisions of said Act; and no bonds have been issued under the authority of said Chapter one hundred sixty-nine of the Public Laws of one thousand nine hundred thirty-seven and the sum of one million, five hundred thousand dollars has heretofore been advanced from funds on hand in the State Treasury, with the approval of the Governor and Council of State, for said purposes, and it is proper that the State Treasury be reimbursed for the monies so advanced: *Now, therefore,*

Advanced from State Treasury.

The General Assembly of North Carolina do enact:

Title of Act.

SECTION 1. That this Act shall be known as "Permanent Improvement and School Book Bond Act of One Thousand Nine Hundred Thirty-Nine."

Issuance of bonds for reimbursing State Treasury, monies advanced for permanent improvement of certain State hospitals.

SEC. 2. For the purpose of reimbursing to the State Treasury monies advanced therefrom for permanently enlarging the State Hospital at Goldsboro, the State Hospital at Raleigh, the State Hospital at Morganton, and the Caswell Training School at Kinston, the State Treasurer is hereby authorized and directed, by and with the consent of the Governor and Council of State, to issue and sell, at one time or from time to time, five hundred thousand dollars ($500,000) bonds of the State.

Issuance of bonds for reimbursing State Treasury, monies advanced for permanent improvements at Western N.C. Sanatorium.

SEC. 3. For the purpose of reimbursing to the Treasury of the State monies advanced therefrom for permanent improvements at the Western North Carolina Sanatorium for the Treatment of Tuberculosis, the State Treasurer is hereby authorized and directed, by and with the consent of the Governor and Council of State, to issue and sell, at one time or from time to time, two hundred fifty thousand dollars ($250,000) bonds of the State.

Issuance of bonds for reimbursing State Treasury monies advanced for purchase of basal textbooks.

SEC. 4. For the purpose of reimbursing to the Treasury of the State monies advanced therefrom for purchasing school books and carrying out the provisions of Chapter one hundred sixty-nine of the Public Laws of one thousand nine hundred thirty-seven, the State Treasurer is hereby authorized and directed, by and with the consent of the Governor and Council of State, to issue and sell, at one time or from time to time, one million, five hundred thousand dollars ($1,500,000) bonds of the State.

Bond proceeds placed in State Treasury.

SEC. 5. The proceeds of the bonds authorized by Sections two, three and four of this Act shall be placed in the Treasury of the State for the purposes specified in said Sections two, three and four, respectively.

Dates and rates of interest of bonds.

Maturity.

SEC. 6. All of the bonds authorized by this Act shall bear such date or dates and such rate or rates of interest, not exceeding four per centum (4%) per annum, payable semi-annually, and shall mature at such time or times, not exceeding thirty (30) years from their date or respective dates, as may be fixed by the Governor and Council of State.

Interest coupons.

Registration.

Form and denomination.

SEC. 7. Said bonds shall carry interest coupons which shall bear the facsimile signature of the State Treasurer, and said bonds shall be subject to registration as is now or may hereafter be provided by law for State bonds, and be signed by the Governor of the State and the State Treasurer and sealed with the Great Seal of the State, and the form and denomination thereof shall be such as the State Treasurer may determine in conformity with this Act.

Sale of bonds.

SEC. 8. Subject to determination by the Governor and Council of State as to the manner in which said bonds shall be offered for sale, whether by publishing notices in certain newspapers and financial journals or by mailing notices or by inviting bids by correspondence or otherwise, the State Treasurer is authorized to sell said bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest.

Full faith and credit of State pledged.

SEC. 9. The full faith, credit and taxing power of the State are hereby pledged for the payment of the principal and interest of the bonds authorized by this Act.

Coupons receivable in payment of taxes,etc.

SEC. 10. The coupons of said bonds after maturity shall be receivable in payment of all taxes, debts, dues, licenses, fines and demands due the State of any kind whatsoever.

Bonds and coupons exempt from taxation.

SEC. 11. All of said bonds and coupons shall be exempt from all State, county and municipal taxation or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on said bonds shall not be subject to taxation as for income, nor shall said bonds or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company, or other corporation.

Interest also exempt.

Investment by fiduciaries, etc. authorized.

SEC. 12. It shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissioners, to invest any monies in their hands in said bonds.

Authority to issue bonds under chapters named, repealed.

SEC. 13. The authority to issue bonds under the provisions of Chapter four hundred thirty-nine of the Public Laws of one thousand nine hundred thirty-five, and under the provisions of Section fourteen of Chapter ninety-one of the Public Laws of one thousand nine hundred thirty-five, and under the provisions of Chapter one hundred sixty-nine of the Public Laws of one thousand nine hundred thirty-seven, is hereby repealed.

SEC. 14. This Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of March, 1939.

H. B. 365 CHAPTER 68

AN ACT TO AMEND SECTION FIVE THOUSAND SEVEN HUNDRED THIRTY OF THE CONSOLIDATED STATUTES AS TO ADOPTION OF BASAL TEXTBOOKS FOR USE IN THE PUBLIC SCHOOLS OF THE STATE.

The General Assembly of North Carolina do enact:

C. S. 5730, amended as to adoption of basal textbooks on North Carolina history, for use in public schools.

SECTION 1. That Section five thousand seven hundred thirty of the Consolidated Statutes be, and is hereby amended by adding a proviso, preceding the proviso at the end of said section, as follows:

"*Provided*, the State Board of Education may adopt not exceeding three basal books on the subject of North Carolina History and, if such multiple adoption is made, the State Board of Education may by rules and regulations prescribe the manner of use of such books in the public schools of the State:."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

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

In the General Assembly read three times and ratified, this the 1st day of March, 1939.

S. B. 87 **CHAPTER 69**

AN ACT TO AMEND CONSOLIDATED STATUTES ONE THOUSAND FOUR HUNDRED AND THIRTY-EIGHT, RELATING TO THE JURISDICTION OF RESIDENT JUDGES AND JUDGES HOLDING THE COURTS OF THE DISTRICTS.

The General Assembly of North Carolina do enact:

C. S. 1438, amended, to give resident and presiding judge concurrent jurisdiction in vacation.

SECTION 1. That Section one thousand four hundred and thirty-eight, Consolidated Statutes, be and the same is hereby amended by adding thereto the following sentence:

"The Resident Judge of the Judicial District and the Judge regularly presiding over the courts of the district, shall have concurrent jurisdiction in all matters and proceedings where the Superior Court has jurisdiction out of term."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1939.

S. B. 154 **CHAPTER 70**

AN ACT TO AMEND SECTION FIVE THOUSAND THREE HUNDRED THIRTY-SEVEN OF THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED NINETEEN, VOLUME TWO, IN REGARD TO APPOINTING DRAINAGE COMMISSIONERS FOR CHADBOURN DRAINAGE DISTRICT, COLUMBUS COUNTY AND TO ADJUST THE BOUNDARIES THEREOF.

The General Assembly of North Carolina do enact:

C. S., 1919, Vol. 2, Sec. 5337, amended.

SECTION 1. That Section five thousand three hundred thirty-seven of the Consolidated Statutes of one thousand nine hundred nineteen, Volume two be and the same is hereby amended by adding at the end thereof the following:

Vacancy appointments of commissioners, Chadbourn Drainage District, Columbus County.

"Any vacancy existing or occuring in the office of drainage commissioner for the Chadbourn Drainage District of Columbus County shall be filled by the Clerk of Superior Court of said county: *Provided* that upon petition of twenty-five or more land owners in said district, the clerk shall order an election and appoint commissioners as provided by law."

SEC. 2. That all lands situated within the present boundaries of the Town of Chadbourn shall be excluded from said drainage district. Lands exempt from drainage district.

SEC. 3. That all laws and clauses of law in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1939.

H. B. 201 CHAPTER 71

AN ACT TO AMEND SECTION SIX HUNDRED NINETY OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO SALE DAYS AND PLACES OF SALE OF REAL PROPERTY SOLD UNDER EXECUTION, BY ORDER OF COURT, OR UNDER POWER OF FORECLOSURE.

The General Assembly of North Carolina do enact:

SECTION 1. That Section six hundred ninety of the Consolidated Statutes of North Carolina as amended by Chapter twenty-three, Public Laws of one thousand nine hundred thirty-one, and Chapter twenty-six, Public Laws of one thousand nine hundred thirty-seven, is hereby amended by striking out all of said section as amended, and by inserting in lieu thereof a new Section six hundred ninety, to read as follows: C. S. 690, amended.

"690. All real property sold under execution shall be sold at the court house door of the county in which all or a part of the property is situated, on any day of the week or month except Sunday, after advertising as required by law. All sales of real property sold under order of court shall be sold at the court house door in the county in which all or any part of the property is situated on any day of the week or month except Sunday, unless in the order directing such sale some other place and time are designated and then it shall be sold as directed in such order on any day of the week or month except Sunday, after advertising as required by law. Sales of real property under execution. Sales under order of court.

"All sales heretofore made under execution or by order of court on any day other than the first Monday in any month, or the first three days of a term of the Superior Court of said county are hereby validated, ratified and confirmed: *Provided*, this Act shall not affect pending litigation. Prior sales validated. Pending litigation unaffected.

"That sales and resales of real property under execution, or by order of court, or under the power of foreclosure in any deed Sales on any day, except Sunday.

of trust or mortgage may be made on any day of any week or month, except Sunday."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1939.

H. B. 265 CHAPTER 72

AN ACT TO PROHIBIT THE HARBORING OF PERSONS WHO HAVE ESCAPED FROM ANY PRISON, JAIL, REFORMATORY, OR ASYLUM, OR FROM THE CUSTODY OF PEACE OFFICERS.

The General Assembly of North Carolina do enact:

Harboring or aiding persons escaped from prisons, jails, etc., prohibited.

SECTION 1. It shall be unlawful for any person knowing, or having reasonable cause to believe, that any other person has escaped from any prison, jail, reformatory, or from the criminal insane department of any State hospital, or from the custody of any peace officer who had such person in charge, or that such person is a convict or prisoner whose parole has been revoked, to conceal, hide, harbor, feed, clothe, or offer aid and comfort in any manner to any such person.

Penalties for violations.

SEC. 2. Every person who shall conceal, hide, harbor, feed, clothe, or offer aid and comfort to any other person in violation of Section one of this Act shall be guilty of a felony, if such other person has been convicted of, or was in custody upon the charge of a felony, and shall be punished by imprisonment in the State Prison not more than five years; and shall be guilty of a misdemeanor, if such other person had been convicted of, or was in custody upon a charge of a misdemeanor, and shall be punished in the discretion of the court.

Act inapplicable to "immediate family" of escapee.

SEC. 3. The provisions of this Act shall not apply to members of the immediate family of such escapee. For the purposes of this Act "immediate family" shall be defined to be the mother, father, brother, sister, wife, husband and child of said escapee.

Conflicting laws repealed.

SEC. 4. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1939.

H. B. 282 **CHAPTER 73**

AN ACT TO AMEND PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTEEN, CHAPTER FORTY, IT BEING SECTION FOUR THOUSAND THREE HUNDRED AND FIFTY-TWO VOLUME ONE OF THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED AND NINETEEN PROHIBITING INDECENT AND BOISTEROUS LANGUAGE ON HIGHWAYS SO AS TO BRING JONES COUNTY UNDER THE PROVISIONS OF SAID ACT.

The General Assembly of North Carolina do enact:

SECTION 1. That Public Laws of one thousand nine hundred and thirteen, Chapter forty, it being Section four thousand three hundred and fifty-two, Volume one of the Consolidated Statutes of one thousand nine hundred and nineteen be, and the same is hereby amended by striking out in line eight after the word "Orange" and before the word "Transylvania" in said line eight, the word "Jones." Ch. 40, Public Laws, 1913, prohibiting use of profane and indecent language on public highway, amended, to apply to Jones County.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 2nd day of March, 1939.

H. B. 433 **CHAPTER 74**

AN ACT TO PROVIDE FOR THE CELEBRATION IN FAYETTEVILLE, NORTH CAROLINA, OF THE ONE HUNDRED AND FIFTIETH ANNIVERSARY OF THE RATIFICATION OF THE CONSTITUTION OF THE UNITED STATES AND THE APPOINTMENT OF COMMITTEES BY THE GOVERNOR, THE SPEAKER OF THE HOUSE OF REPRESENTATIVES, AND THE LIEUTENANT-GOVERNOR FOR SUCH PURPOSE.

WHEREAS, the Constitution of the United States of America was ratified for North Carolina on the twenty-first day of November, one thousand seven hundred and eighty-nine, by a State Constitutional Convention held in Fayetteville, North Carolina; and Preamble: Ratification of U. S. Constitution Nov. 21, 1789.

WHEREAS, it is proposed to celebrate this event in Fayetteville on the twenty-first day of November, one thousand nine hundred thirty-nine; and Proposal for celebration.

WHEREAS, the North Carolina Bar Association has appoint- Appointment of committee by N. C. Bar Association.

ed a committee to cooperate on behalf of said Bar Association with any committee provided for by the General Assembly to sponsor such celebration; and

Importance of celebration.

WHEREAS, it is the sense of the General Assembly that this important event should be duly celebrated and commemorated by the State of North Carolina: *Now, therefore,*

The General Assembly of North Carolina do enact:

Appointment by Governor of committee to promote and direct celebration.

SECTION 1. That the Governor of North Carolina be, and he is hereby, authorized to appoint a committee of five persons who, together with the committee appointed and provided for by the North Carolina Bar Association to assist in the celebration of the ratification of the United States Constitution, shall constitute a committee with authority to promote and direct an appropriate celebration and commemoration of the ratification of the Constitution of the United States by the North Carolina Constitutional Convention held in Fayetteville, North Carolina, on November twenty-first, one thousand seven hundred eighty-nine, for and on behalf of the State.

Appointment of committees by Lieutenant-Governor and Speaker of House to assist in celebration.

SEC. 2. That the Speaker of the House of Representatives of the General Assembly and the Lieutenant-Governor be, and each is hereby, authorized to appoint two committees of seven members of the House of Representatives, and seven members of the Senate of the General Assembly to assist in the celebration of the ratification of the United States Constitution as aforesaid: *Provided,* that the committees appointed by the Speaker of the House of Representatives and the Lieutenant-Governor shall have no authority in the promotion and direction of the celebration.

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

In the General Assembly read three times and ratified, this the 2nd day of March, 1939.

S. B. 55 CHAPTER 75

AN ACT TO AMEND CHAPTER EIGHTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, RELATING TO THE STATE BOARD OF EXAMINERS OF TILE CONTRACTORS AND THE LICENSING OF PERSONS ENGAGED IN TILE CONTRACTING BUSINESS.

The General Assembly of North Carolina do enact:

Ch. 86, Public Laws, 1937, amended.

SECTION 1. That Section two of Chapter eighty-six of the Public Laws of one thousand nine hundred and thirty-seven, is stricken out and the following substituted in lieu thereof:

"SEC. 2. Engaged in tile contracting for the purpose of this Act is defined to mean any person, firm or corporation who for profit engages in tile contracting business in the State of North Carolina in buildings for private or public use. *Provided* this Act shall not apply to persons who set or lay tile for another person and are paid by the hour or day for their services, *provided* such persons do not contract to furnish tile." "Tile contracting" redefined.

SEC. 3. That Section nine of Chapter eighty-six of the Public Laws of one thousand nine hundred and thirty-seven, be amended by adding a proviso at the end thereof to read as follows: "*Provided* that this Act shall not apply to persons entering into contracts to set or lay tile where the contract price does not exceed two hundred and fifty dollars." Sec. 9, amended, to exempt certain persons.

SEC. 4. That Section eleven of Chapter eighty-six of the Public Laws of one thousand nine hundred and thirty-seven, be amended by inserting after the word "act" and preceding the word "and" in line three thereof the words "who engages therein." Sec. 11, amended, as to persons engaging in tile contracting without license.

SEC. 5. All laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 6. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1939.

S. B. 79 **CHAPTER 76**

AN ACT TO AUTHORIZE THE STATE, COUNTIES, MUNICIPALITIES, AND OTHER TAXING SUBDIVISIONS OF THE STATE, TO COMPROMISE TAX CLAIMS AGAINST ANY RAILROAD COMPANY IN WHICH THE STATE OWNS A MAJORITY OF THE STOCK.

The General Assembly of North Carolina do enact:

SECTION 1. That the Commissioner of Revenue of the State of North Carolina and the governing bodies of any county, municipality, or other taxing subdivision in this State be, and are hereby authorized within their discretion to accept in full settlement for all taxes which have heretofore become due settlements thereof which may be less than the full amount of such taxes, penalties and costs as to any taxes which may be due by any railroad company in North Carolina in which the State of North Carolina is the owner of more than a majority of the outstanding capital stock; and said settlement may be accepted by said officials if in their judgment the acceptance of the same will Compromise of tax claims due by railroad companies in which State owns majority of stock, authorized.

be for the best interests and to the advantage of the respective taxing units holding such tax claims.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

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

In the General Assembly read three times and ratified, this the 3rd day of March, 1939.

S. B. 181 CHAPTER 77

AN ACT TO AUTHORIZE THE ISSUANCE OF NOTES OF THE STATE FOR THE PURPOSE OF PAYING APPROPRIATIONS.

The General Assembly of North Carolina do enact:

Issuance of tax and revenue anticipation notes for payment of appropriations.

SECTION 1. That for the purpose of paying appropriations made for each year of the biennium ending June thirtieth, one thousand nine hundred and forty-one for the various institutions, departments and agencies of the State, the State Treasurer, by and with the consent of the Governor and Council of State, shall have authority to borrow in anticipation of the collection of taxes and revenues for such biennium such sum or sums as may be necessary for such purpose and as may be determined by the Governor and Council of State, and to execute and issue notes of the State for the money so borrowed, and to pledge the credit of the State for the payment thereof. Such notes may be renewed from time to time and money may be borrowed upon new notes from time to time for the payment of any indebtedness evidenced thereby. All such notes and renewal notes shall bear such date or dates and such rate or rates of interest, and shall mature in such amounts and at such time or times as may be determined by the Governor and Council of State, and shall be executed by the State Treasurer and negotiated and disposed of by him in such a manner as may be determined by the Governor and Council of State.

Provision for renewal.

Interest rate and maturity.

Execution.

Full faith and credit of State pledged.

SEC. 2. That the full faith, credit and taxing power of the State are hereby pledged for the payment of the principal and interest of the notes herein authorized.

Notes exempt from taxation.

SEC. 3. That all of said notes shall be exempt from all State, county and municipal taxation or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, including inheritance and transfer and estate and succession taxes; and the interest on said notes shall not be subject to taxation as for income, nor shall said notes be subject to taxation when constituting a part of the surplus of any bank, trust company, or other corporation, or of the estate of any decedent.

Interest also exempt.

SEC. 4. That it shall be lawful for all executors, administrators, guardians and fiduciaries generally, and all sinking fund commissioners, to invest any monies in their hands in said notes. Investment by fiduciaries.

SEC. 5. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1939.

H. B. 17 CHAPTER 78

AN ACT TO AMEND SECTION SIX THOUSAND FIFTY-FOUR OF VOLUME THREE OF THE CONSOLIDATED STATUTES, SO AS TO PLACE BURKE COUNTY UNDER THE STATE-WIDE PRIMARY LAWS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section six thousand fifty-four of Volume Three of the Consolidated Statutes of North Carolina be, and the same is hereby amended by striking out the word "Burke" in line five of said section, it being the intent and purpose of this Act to place Burke County under the provisions of the State-wide Primary Laws for the nomination of county officers and members of the General Assembly. C. S., Vol. 3, Sec. 6054, amended. Burke County placed under State-wide Primary Law.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1939.

H. B. 103 CHAPTER 79

AN ACT TO AMEND CONSOLIDATED STATUTES TWO THOUSAND AND NINETY-NINE, VOLUME ONE, ONE THOUSAND NINE HUNDRED AND NINETEEN, RELATIVE TO THE REGULATION OF GAME ANIMALS, GAME AND NON-GAME BIRDS AND FISH ON GAME PRESERVES IN NORTH CAROLINA.

The General Assembly of North Carolina do enact:

SECTION 1. That Consolidated Statutes two thousand and ninety-nine, Volume one, one thousand nine hundred and nineteen, be amended by adding a new paragraph at the end thereof to read as follows: C. S., Vol. 1, 1919, Sec. 2099, amended to futher construe Act, in accord with provisions of N. C. Game Law.

"Nothing in this Act shall be construed as conveying the ownership of wild life from the State of North Carolina or permit the trapping, hunting or transportation of any game animals, game or non-game birds and fish, by any person, firm or corporation, including any agency, department or instrumentality of the United States Government or agents thereof, on the lands in North Carolina, as shall have been or may hereafter be purchased by the United States under the terms of any Act of Congress, except in accordance with the provisions of Chapter four hundred and eighty-six, Public Laws of one thousand nine hundred and thirty-five."

Violations made misdemeanor.

SEC. 2. Any person, firm or corporation, including employees or agents of any department or instrumentality of the United States Government, violating the provisions of this Act shall be guilty of a misdemeanor and shall be punished in the discretion of the court.

Conflicting laws repealed.

SEC. 3. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1939.

H. B. 324 CHAPTER 80

AN ACT TO AMEND SECTION SIX THOUSAND FIFTY-FOUR OF VOLUME THREE OF THE CONSOLIDATED STATUTES PLACING CLAY COUNTY UNDER THE PROVISIONS OF THE STATE-WIDE PRIMARY LAW.

The General Assembly of North Carolina do enact:

C. S., Vol. 3, Sec. 6054, amended.

Clay County placed under State-wide Primary Law.

SECTION 1. That Section six thousand fifty-four of Volume Three of the Consolidated Statutes, be and the same is hereby amended by striking out the word "Clay" in line five of said section, it being the intent and purpose of this Act to place Clay County under the provisions of Article seventeen of Chapter ninety-seven of Volume Three of the Consolidated Statutes, relating to primary elections.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1939.

S. B. 123 **CHAPTER 81**

AN ACT RELATING TO THE ISSUANCE AND SERVICE OF SUMMONS BY INFERIOR COURTS.

The General Assembly of North Carolina do enact:

Issuance of process to another county.

SECTION 1. That no summons in civil suits or civil proceedings shall run outside the county where issued, unless the amount involved in the litigation is more than two hundred dollars in matters arising out of contract and more than fifty dollars in matters arising in tort: *Provided,* that this Act shall not effect or limit the provisions of Sections one thousand four hundred and eighty-nine, one thousand four hundred and ninety-one, one thousand four hundred and ninety-two, one thousand four hundred and ninety-three and one thousand four hundred and ninety-four of the Consolidated Statutes of one thousand nine hundred and nineteen.

Construction of Act.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1939.

H. B. 104 **CHAPTER 82**

AN ACT TO AMEND SECTION NINE HUNDRED AND FORTY-FIVE OF THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED AND NINETEEN RELATIVE TO THE ATTENDANCE OF CLERKS OF THE SUPERIOR COURTS AT THEIR OFFICES.

The General Assembly of North Carolina do enact:

C. S., 1919, Sec. 945, amended, as to penalty prescribed for failure of Clerk Superior Court to give due attendance at office.

SECTION 1. That Section nine hundred and forty-five of the Consolidated Statutes of North Carolina, one thousand nine hundred and nineteen, be, and the same is hereby, amended by striking out the words "he shall forfeit his office" in line nine thereof and inserting in lieu thereof the words "he shall forfeit an amount not exceeding two hundred dollars, said amount to be fixed and determined by the resident judge of his district or the judge presiding in said district upon the complaint of any citizen."

C. S. 945, further amended.

Hours of attendance on Saturday may be fixed by County Commissioners.

SEC. 2. That Section nine hundred and forty-five of the Consolidated Statutes of North Carolina, one thousand nine hundred and nineteen, be, and the same is hereby, amended by adding at the end of said section, the following: *"Provided, however,* that the Board of County Commissioners of each county may fix by

order to be entered on their records at what hours of each Saturday of each week, (in no event to be less than three hours nor more than nine hours on said day, holidays excepted; except in Cumberland County in no event to be less than six hours nor more than nine hours on said day, holidays excepted) the Clerk of the Superior Court of their respective Counties shall attend at his office in person or by assistant or by deputy, and he or his assistant or deputy shall give his attendance accordingly."

Exception.

Counties exempt.

SEC. 3. That this Act shall not apply to the Counties of Currituck, Moore and Richmond.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1939.

H. B. 206 **CHAPTER 83**

AN ACT TO ERECT A MEMORIAL TO THE MEMORY OF THE LATE CAPTAIN SAMUEL A'COURT ASHE ON THE WESTERN SIDE OF THE STATE CAPITOL GROUNDS, RALEIGH, NORTH CAROLINA.

Preamble: Tribute to Captain Samuel A. Ashe.

WHEREAS, in the death of Captain Samuel A'Court Ashe, the State of North Carolina has sustained the loss of a son who in every sense was worthy of the proud position she has achieved among her sister states. A son as knightly, as without reproach and as beautiful as his great Commander, the immortal Robert E. Lee. Personally commissioned an officer in the Confederate Army by President Davis, he served the lost cause with the valor and distinction of his race. A great man who did so much to immortalize and make beautiful the life and tradition of North Carolina, and with him died the last of the gallant cavaliers who officered the Gray-clad host of the Confederacy, than whom no braver band ever stood arrayed in the ranks of war, and

Proposal to preserve memory by suitable memorial.

WHEREAS, to preserve for posterity as an example of this worthy son of North Carolina, a committee of friends and admirers of Captain Samuel A'Court Ashe, soldier, historian, publicist and gentleman, present to the General Assembly of North Carolina their proposal to preserve his memory by a suitable memorial, and most respectfully request permission to place such memorial on the western side of the State Capitol among the present memorials of the Confederacy, and to this end,

The General Assembly of North Carolina do enact:

Appointment of committee for erection of memorial to Captain Ashe, on grounds of State Capitol.

SECTION 1. That the following persons constitute the Committee to carry out the purposes and intentions of this Act: Honorable George Gordon Battle of New York, Chairman; Honorable Josephus Daniels, Ambassador to Mexico; Dr. Frank Porter Graham, President of the University of North Carolina; Dr. Charles Lee Smith, Historian; Honorable Heriot Clarkson, Justice of Supreme Court; Honorable Thomas Dixon, Author; Honorable Archibald Henderson, Mathematician, Historian and Biographer; Dr. Julian S. Little; Honorable J. C. B. Ehringhaus; Honorable Burton Craig; General Albert L. Cox; Mr. Ernest M. Green; Dr. Clarence Poe; Mr. E. A. Oldham; Mr. J. Frank Wilkes; Mr. Charles Root; Honorable Ed Chambers Smith; Mr. Louis T. Moore; Mr. Frank P. Haywood; Mistress Lawrence Sprunt; Mistress S. Westray Battle; Mistress L. E. Fisher; Mistress Charles A. Cannon; Mistress Ashby L. Baker; Mistress William J. Andrews; Mistress Alfred Williams; Mistress John H. Anderson; Mistress R. B. Raney; Mistress Heriot Clarkson; Mistress Justin S. White; Mistress William B. Little; Mistress T. Murray Allen; Mistress Louis A. Mahler, be, and the same are hereby appointed as a committee for the purpose of raising the necessary funds to erect a suitable, proper and decent memorial to Captain Samuel A'Court Ashe on the grounds of the State Capitol, Western side, in the City of Raleigh, North Carolina.

Cost of memorial to be provided by voluntary contribution.

SEC. 2. That the cost of this memorial shall be without appropriation or expense to the State of North Carolina, it being the desire of the above named committee to perpetuate the memory of North Carolina's valiant and beloved son, by voluntary and spontaneous contributions for the purpose of handing down to posterity the name of a man which ennobles the history, the tradition and the glory of the Old North State and this committee above mentioned is hereby directed and empowered to erect and place such proper memorial they may decide is fitting and proper upon the State Capitol grounds in the City of Raleigh with and by the consent of the Governor of North Carolina and the Council of State.

SEC. 3. That this Act shall be in full force and effect from and after its passage.

In the General Assembly read three times and ratified, this the 6th day of March, 1939.

H. B. 417 CHAPTER 84

AN ACT TO REPEAL SECTION TWO HUNDRED TWENTY (i), CHAPTER FIVE, ARTICLE FIVE, CONSOLIDATED STATUTES OF NORTH CAROLINA, WITH REFERENCE TO PAYMENT OF DEPOSITS IN BANKS IN THE NAME OF A MINOR AND TO ENACT A SUBSTITUTE SECTION.

The General Assembly of North Carolina do enact:

C. S., Ch. 5, Art. 5, Sec. 220 (i), amended.

SECTION 1. That Section two hundred twenty (i), Chapter Five, Article Five, entitled "Minor, payment of deposit in the name of" be, and the same is hereby, repealed, and the following be, and the same is hereby, substituted for said section: "When money is held on deposit by any State, Industrial or National Bank in this State in the name of a minor under fifteen years of age, it may be paid, together with the interest, if there be any interest thereon, upon receipts or checks signed by such minor and one of the minor's parents. When money is held on deposit by any State, Industrial or National Bank in this State in the name of a minor fifteen years of age or upwards, it may be paid, together with the interest, if there be any interest thereon, upon receipts or checks signed by the minor. A written statement from the minor, if fifteen years of age or upward, or from one of the said minor's parents, if the minor is under fifteen years of age, shall be conclusive evidence of the age of the minor."

Payment of bank deposits in the name of minors.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1939.

H. B. 445 CHAPTER 85

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED EIGHTY-ONE OF THE CONSOLIDATED STATUTES RELATING TO THE PAYMENT FOR DAMAGE CAUSED BY DOGS TO SHEEP AND TURKEYS OR OTHER PROPERTY IN ONSLOW COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1681, amended, as to payment of damages by dogs in Onslow County.

SECTION 1. That Section one thousand six hundred eighty-one of the Consolidated Statutes be, and the same hereby amended by adding at the end of said section the following: "*Provided* that Onslow County shall not be liable, or required to pay damages, for injury to person or for sheep and turkeys or any other property destroyed, or injured by dogs in said county."

SEC. 2. This Act, however, shall not apply to pending claims for which Onslow County may be liable under the law as it heretofore existed. Pending claims unaffected.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1939.

H. B. 507 **CHAPTER 86**

AN ACT TO AMEND SECTION THREE, CHAPTER TWO HUNDRED EIGHTY-ONE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE, BEING SECTION NINE HUNDRED SIXTY-TWO (c), NORTH CAROLINA CODE, PROTECTING BANK DEPOSITS BY CLERKS OF THE SUPERIOR COURT.

The General Assembly of North Carolina do enact:

SECTION. 1. That Section three, Chapter two hundred eighty-one, Public Laws of one thousand nine hundred thirty-one, appearing as Section nine hundred sixty-two (c), North Carolina Code, be, and the same is hereby, amended by substituting a semicolon for the period after the word "commission" and by adding the following: "*Provided, however,* that to the extent of the amount which may be insured by the Federal Deposit Insurance Corporation or other federal agency insuring bank deposits the said insurance shall be deemed and considered ample security, and the Clerk of the Superior Court shall not require corporate surety bond or any of the bonds above specified for that amount of the deposit insured by deposit insurance." Ch. 281, Public Laws, 1931, amended. Security not required to extent deposits by Clerks are covered by F. D. I. C. Insurance.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1939.

H. B. 510 **CHAPTER 87**

AN ACT TO SUPPLEMENT THE WORLD WAR VETERANS LOAN ACT OF ONE THOUSAND NINE HUNDRED TWENTY-FIVE, CHAPTER ONE HUNDRED FIFTY-FIVE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-FIVE, BY AUTHORIZING THE COMMISSIONER OF BANKS TO EXERCISE MORTGAGE POWERS OF SALE WHERE SUCH POWERS WERE GRANTED TO DEFUNCT BANKS, AND PROVIDING THAT THE COMMISSIONER OF THE WORLD WAR VETERANS LOAN FUND MAY PURCHASE THE PROPERTY AT SUCH SALES.

Preamble: Banks now closed named as trustee in deeds of trust for Veterans Loan Fund.

WHEREAS, certain banks now defunct were named as trustees in certain mortgage trust deeds securing certain loans made under the World War Veterans Loan Act of one thousand nine hundred twenty-five and the interest of the State demands that some person be appointed to exercise the powers of sale contained in said instruments:

The General Assembly of North Carolina do enact:

Exercise of powers of sale by Commissioner of Banks, authorized.

SECTION 1. That in all cases where any bank not now in existence as a going concern was named as trustee in any mortgage trust deed securing any loan made under the World War Veterans Loan Act of one thousand nine hundred twenty-five, Chapter one hundred fifty-five, Public Laws of North Carolina, one thousand nine hundred twenty-five, as amended and supplemented from time to time, or succeeded to such trusteeship by corporate merger, consolidation, substitution or otherwise, the powers of sale contained in such mortgage trust deeds may be exercised by the Commissioner of Banks and his successors in office, in the same manner, to the same extent, and with like effect as if he had been originally named as trustee therein.

Purchase, etc. by Commissioner of World War Veterans Loan Fund authorized.

SEC. 2. That the Commissioner of the World War Veterans Loan Fund and his successors in office may purchase the property sold at any such sale and may hold, manage, and sell the same as provided in Section twelve (a), of Section one of Chapter four hundred thirty-eight, Public Laws of one thousand nine hundred thirty-five.

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

In the General Assembly read three times and ratified, this the 6th day of March, 1939.

S. B. 249 **CHAPTER 88**

AN ACT TO AMEND SECTION ONE THOUSAND TWO HUNDRED NINETY-SIX OF CONSOLIDATED STATUTES, VOLUME ONE, ONE THOUSAND NINE HUNDRED NINETEEN, RELATIVE TO SPECIAL MEETINGS OF THE BOARD OF COUNTY COMMISSIONERS OF RICHMOND COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand two hundred ninety-six of Consolidated Statutes, Volume one, one thousand nine hundred nineteen, be amended by adding a proviso at the end thereof to read as follows: "*Provided,* that in Richmond County meetings may be held at other times for the more convenient dispatch of business at the call of the chairman, or upon the written request of one member of the board, upon six hours notice to each member of the said board: *Provided, further,* that in Richmond County the Board of Commissioners shall receive the same compensation for attending special meetings as they receive for attending regular meetings of said board."

C. S., Vol. 1, 1919, Section 1296, amended.

Special meetings of County Commissioners, Richmond County, authorized.

Notice.

Compensation.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1939.

H. B. 205 **CHAPTER 89**

AN ACT TO APPROPRIATE THIRTY THOUSAND DOLLARS TO THE DEPARTMENT OF AGRICULTURE TO BE EXPENDED FOR THE PURPOSE OF SOIL POISONING, IN ORDER THAT THE RAVAGES OF THE JAPANESE BEETLE MIGHT BE CONTROLLED IN THIS STATE, THEREBY PREVENTING THE STATE BEING PLACED UNDER QUARANTINE BY THE FEDERAL GOVERNMENT.

WHEREAS, the Japanese bettle has been discovered in this State and has caused and will cause tremendous damage and destruction to growing crops and fruits; and

Preamble: Damage by Japanese beetle to growing crops and fruits.

WHEREAS, unless some action to eradicate this insect and to prevent further destruction of such crops is taken by the State, the Federal Government will impose a quarantine on the

Imposition of quarantine on State by Federal Gov't. unless insect is eradicated.

State, thereby preventing shipment out of the State of such farm crops; and

Damages suffered by farmers.

WHEREAS, failure to take steps to prevent the increase of the Japanese beetle and to destroy the same, the farmers of this State will suffer an incalculable sum of money resulting from the failure to market their farm products; and

Agreement of Federal Government to furnish equipment for eradication of beetle.

WHEREAS, the Federal Government through the Department of Agriculture has agreed to furnish all equipment necessary for the eradication and destruction of the Japanese beetle free of charge and has further agreed to supervise this activity; Now, therefore

The General Assembly of North Carolina do enact:

Additional appropriation to Dept. of Agriculture for eradication of Japanese beetle.

SECTION 1. That in addition to all other appropriations which are or hereafter may be made to the Department of Agriculture, there is hereby appropriated the sum of thirty thousand dollars ($30,000) to be expended by the Department of Agriculture in cooperation with the Federal Government to be used in the eradication and destruction of the Japanese beetle in this State.

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1939.

H. B. 312 CHAPTER 90

AN ACT TO AMEND CHAPTER ONE HUNDRED SIXTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN RELATIVE TO THE DUTIES OF THE STATE TEXTBOOK COMMISSION.

The General Assembly of North Carolina do enact:

Ch. 169, Public Laws, 1937, amended.

SECTION 1. That Section two of Chapter one hundred sixty-nine, of the Public Laws of one thousand nine hundred thirty-seven, be amended by adding a new subsection to be designated as subsection (7), to read as follows:

State Textbook Commission authorized to buy, sell or rent library books for use in public schools.

"(7) Buy, sell, or rent library books to be placed in the public schools of this State from a list to be selected by the State Superintendent of Public Instruction, with the approval of the State Board of Education, and to be placed in such schools as may be designated by the State Textbook Commission: *Provided*, that such library books shall be purchased in

accordance with rules and regulations duly promulgated by the State Board of Education." Regulation of purchases.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 8th day of March, 1939.

H. B. 252 CHAPTER 91

AN ACT TO CREATE A STATE BANKING COMMISSION; TO ABOLISH THE ADVISORY COMMISSION TO THE COMMISSIONER OF BANKS; TO DEFINE THE DUTIES OF THE STATE BANKING COMMISSION AND THE COMMISSIONER OF BANKS.

The General Assembly of North Carolina do enact:

SECTION 1. That all of that part of Section one of Chapter two hundred forty-three of the Public Laws of one thousand nine hundred and thirty-one, beginning with the second paragraph thereof, and with the words "An Advisory Commission to the Commissioner of Banks is hereby created**", and ending with the words "shall be final" at the end of said section, as amended by Chapter two hundred sixty-six of the Public Laws of one thousand nine hundred thirty-five, is hereby repealed, and there is hereby substituted therefor the following: "There is hereby created, to become effective on April first, one thousand nine hundred and thirty-nine, a State Banking Commission, which commission shall consist of the State Treasurer and the Attorney General, who shall serve as ex officio members thereof, and five members to be appointed by the Governor, four of which said members shall be practical bankers and one shall be a business man who is not an executive official in any bank, said five members shall be appointed for a term of four years beginning on April first, one thousand nine hundred and thirty-nine; and said appointive members shall receive as compensation the same per diem and expenses paid to the members of the Advisory Budget Commission, which compensation shall be paid from the fees collected for the examination of banks, as provided by law. Sec. 1, Ch. 243, Public Laws, 1931, amended to abolish the Advisory Commission to the Commissioner of Banks. State Banking Commission created. Members. Terms. Compensation.

The Banking Commission shall meet at such time or times, and not less than once every three months, as the commission shall, by resolution, prescribe, and the commission may be convened in special session at the call of the Governor, or upon the Meetings of Commission.

Chairman.

request of the Commissioner of Banks. The State Treasurer shall be chairman of the said commission.

Personal restrictions upon members.

No member of said commission shall act in any matter affecting any bank in which he is financially interested, or with which he is in any manner connected. No member of said commission shall divulge or make use of any information coming into his possession as a result of his service on such commission, and shall not give out any information with reference to any facts coming into his possession by reason of his services on such commission in connection with the condition of any State banking institution, unless such information shall be required of him at any hearing at which he is duly subpoenaed, or when required by order of a court of competent jurisdiction.

Service of Advisory Commission continued until April 1, 1939.

The Advisory Commission to the Commissioner of Banks, created by Chapter two hundred and forty-three of the Public Laws of one thousand nine hundred and thirty-one, shall continue to serve until the first day of April, one thousand nine hundred and thirty-nine, and perform the functions and duties required of it by law until said date.

Commissioner of Banks to act as executive officer.

Hearings before Commission.

The Commissioner of Banks shall act as the executive officer of the Banking Commission, but the commission shall provide, by rules and regulations, for hearings before the commission upon any matter or thing which may arise in connection with the banking laws of this State upon the request of any person interested therein, and review any action taken or done by the Commissioner of Banks.

Supervision of Commissioner of Banks.

The Banking Commission is hereby vested with full power and authority to supervise, direct and review the exercise by the Commissioner of Banks of all powers, duties, and functions now vested in or exercised by the Commissioner of Banks under the banking laws of this State."

Sec. 4 amended.

SEC. 2. That Section four of Chapter two hundred and forty-three of the Public Laws of one thousand nine hundred and thirty-one, be and the same is hereby amended by striking out the words "Subject to the provisions contained in Section one of this Act," which words appear at the end of the first sentence in said section, and adding in lieu thereof "Under the direction and supervision of the Banking Commission, and wherever provision is made in any law now in effect authorizing and permitting the Commissioner of Banks to make rules and regulations with respect to any actions or things required to be done under the banking laws of this State, such rules and regulations shall be made by the Banking Commission, and the words 'the Commissioner of Banks', used in such statutes authorizing him to make rules and regulations, shall be construed to mean the Banking Commission, and the words 'Banking Commission' substituted in such statutes for 'Commissioner of Banks.'"

Additional powers conferred upon Banking Commission.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1939.

H. B. 544 **CHAPTER 92**

AN ACT TO AMEND SECTION NINE HUNDRED FIFTY-SIX OF THE CONSOLIDATED STATUTES, VOLUME ONE, ONE THOUSAND NINE HUNDRED NINETEEN, AS AMENDED BY CHAPTER ONE HUNDRED FIFTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE, RELATING TO REPORTS OF THE CLERK OF THE SUPERIOR COURT OF WAYNE COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section nine hundred fifty-six of the Consolidated Statutes, Volume one, one thousand nine hundred nineteen, as amended by Chapter one hundred fifty-six of the Public Laws of one thousand nine hundred thirty-one, be, and the same is hereby amended by adding a proviso at the end thereof, to read as follows: "*Provided,* that in the event the accounts of the Clerk of the Superior Court of Wayne County are audited at least once each year by a certified public accountant employed for that purpose by the Board of County Commissioners, the annual report required by this section shall not be required of the Clerk of the Superior Court of said county." C. S., 1919, Vol. 1, Sec. 956, as to annual report of public funds on hand by Clerks Superior Court, amended. Audit by Certified Public Accountant, in lieu of report, Wayne County.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 9th day of March, 1939.

H. B. 27 **CHAPTER 93**

AN ACT TO PLACE MRS. MARY CALHOUN RUSSELL STUBBS, WIDOW, ON THE CONFEDERATE PENSION ROLL.

Preamble: Thos. Russell member of North Carolina State Troops.

WHEREAS, Thomas Russell, of Randolph County, was a Confederate Veteran being a member of Company "F", Forty-Sixth Regiment, North Carolina State Troops; and

Mary Calhoun Russell Stubbs, wife of Thomas Russell.

WHEREAS, Mary Calhoun Russell Stubbs was married to the said Thomas Russell in November, one thousand nine hundred and that the said Thomas Russell died in the year one thousand nine hundred and nine; and

Ten year marriage requirement of pension law.

WHEREAS, the pension law requires that such widow must have been married for a period of ten years prior to the death of such Confederate soldier to be placed on the pension rolls; and

Mary Calhoun Russell Stubbs without means of support.

WHEREAS, the said Mary Calhoun Russell Stubbs married J. T. Stubbs, who has since died and that the said Mary Russell Calhoun, is now a widow, sixty-five years of age and without means of support; *Now, therefore*

The General Assembly of North Carolina do enact:

Mrs. Mary Calhoun Russell Stubbs, Hoke County, placed on Confederate pension roll.

SECTION 1. That Mrs. Mary Calhoun Russell Stubbs, of Hoke County, widow of Thomas Russell, a Confederate Veteran, be and she is hereby placed on the pension roll to receive the pension now allowed widows of Confederate Veterans.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 410 **CHAPTER 94**

AN ACT TO VALIDATE CERTAIN SALES OF REAL AND PERSONAL PROPERTY MADE BY SHERIFFS UNDER EXECUTION.

The General Assembly of North Carolina do enact:

Sales under execution by Sheriffs on day other than provided by statute, validated.

SECTION 1. That all sales of real or personal property heretofore made by a Sheriff of any County in North Carolina, in the manner provided by law for sale of real or personal property under execution, on any day other than the day now provided by law, be, and the same are hereby validated.

Pending litigation unaffected.

SEC. 2. That this Act shall not affect pending litigation.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 422 CHAPTER 95

AN ACT TO AMEND SECTION FOUR THOUSAND FOUR HUNDRED EIGHTY-ONE OF THE CONSOLIDATED STATUTES, VOLUME THREE, ONE THOUSAND NINE HUNDRED TWENTY-FOUR, RELATIVE TO THE REGULATION OF LANDLORD AND TENANT.

The General Assembly of North Carolina do enact:

SECTION 1. That Section four thousand four hundred eighty-one of the Consolidated Statutes, Volume three, one thousand nine hundred twenty-four, be amended by inserting in line seventeen, after the word "counties" and before the word "Wake," the words "Washington, Cabarrus, Davidson and Harnett." C.S., 1924, Vol. 3, Sec. 4481, amended to make section applicable to Washington, Cabarrus, Davidson and Harnett Counties.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 441 CHAPTER 96

AN ACT TO AMEND CHAPTER FIFTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND NINE AND CHAPTER ONE HUNDRED AND FIFTY OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-ONE, RELATING TO THE RECORDER'S COURT OF DURHAM COUNTY, AND ALSO TO LIMIT AUTHORITY OF RECORDER TO CHANGE, MODIFY OR ALTER JUDGMENTS, AND TO PREVENT REFUNDS OF FINES, COSTS, ETC., COLLECTED.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter fifty-nine of the Public Laws of one thousand nine hundred and nine be amended by striking out the Sec. 4, Ch. 59, Public Laws, 1909, amended.

first sentence of Section four thereof beginning with the words, "The Court" and ending with the words, "Durham County," and substituting in lieu thereof the following:

Time for holding Recorder's Court, Durham County.

The court shall hold daily sessions, Sundays excepted, at the courthouse in Durham County: *Provided however*, the Recorder, in his discretion, may also except Saturdays and legal holidays as days on which court may not be held. It is hereby made the duty of the said Board of Commissioners of the County of Durham and the Board of Aldermen of the City of Durham to provide a suitable place for the holding of the said courts.

Place for holding court.

Sec. 7, as to notice of appeals from Recorder's Court, amended.

SEC. 2. That Section seven of Chapter fifty-nine of the Public Laws of one thousand nine hundred and nine be amended by adding at the end of Subsection (g) of said Section seven, the following:

Provided, however, that such appeal is taken by giving notice thereof in open court within ten days from the date of the rendition of the judgment or sentence of the Recorder.

Sec. 11, amended.

SEC. 3. That Chapter fifty-nine of the Public Laws of one thousand nine hundred and nine be amended by striking out all of Section eleven thereof, and substituting in lieu of said Section eleven the following:

Jurisdiction of Recorder.

SEC. 11. The Recorder shall preside over said court and try and determine all actions coming before him, the jurisdiction of which is conferred by this Act or by any other Acts or provisions of law, and the proceedings of such court shall be the same as are now prescribed for Justices of the Peace, and in all cases there shall be a right of appeal on the part of the defendant adjudged guilty to the Superior Court for Durham County for the trial of criminal causes: *Provided, however*, that any person desiring to appeal from the action of the Recorder must give notice thereof in open court within ten days from and after the judgment or sentence is pronounced by the Recorder. In all such cases of appeal the defendant shall be required to give bond with sufficient surety to be fixed by the said Recorder, conditioned upon the defendant's appearance in the Superior Court held for Durham County for the trial of criminal causes, and in default thereof the Recorder shall commit such defendant to the common jail of Durham County until said defendant shall give bond or be otherwise discharged according to law.

Right of appeal to Superior Court.

Notice of appeal.

Bond required.

Ch. 150, Public Laws, 1921, amended.

SEC. 4. That Chapter one hundred and fifty of the Public Laws of one thousand nine hundred and twenty-one be amended by striking out of Section one thereof the language "the Clerk of the Recorder's Court for Durham Township and Durham County and," and adding at the end of said Section one, as new sentences, the following:

Docketing of appeals in Superior Court.

All appeals from the Recorder's Court of Durham County shall be docketed in the Superior Court of Durham County on the

eleventh day after the notice of appeal is given in said Recorder's Court. In all cases in which the Recorder in Durham County has not jurisdiction and in which probable cause of guilt is found the Clerk of Recorder's Court shall immediately make out his returns and papers and deliver them to the Clerk of Superior Court of Durham County.

Recorder shall not alter judgment or sentence after expiration of 30 days from date thereof.

SEC. 5. The Recorder of the Recorder's Court of Durham County shall not change, alter, or modify any judgment rendered or sentence pronounced by him, after the expiration of thirty days from the date of rendering said judgment or pronouncing said sentence, except that in those cases in which there shall be a failure or refusal to comply with a judgment requiring the payment of a fine, costs, or other sum of money, or failure to comply with the terms of a suspended judgment, the Recorder may pronounce sentence on such defendant: *Provided, however,* that nothing in this section shall be construed as conferring upon the Recorder any authority to change, alter, or modify any judgment or sentence prior to the expiration of thirty days from the date of the rendition of said judgment or sentence in cases in which an appeal has been taken and the appeal docketed in the Superior Court.

Exception.

Construction of section.

Refund or cancellation of fines, costs, etc. by Recorder or Clerk prohibited.

SEC. 6. Neither the Recorder nor the Clerk of the Recorder's Court of Durham County shall remit, cancel or refund any fines, costs, or forfeitures which have been or may be collected by the said clerk pursuant to judgment rendered by the said Recorder.

Appeals by State from judgment of Recorder's Court.

SEC. 7. That after the ratification of this Act an appeal to the Superior Court of Durham County for the trial of criminal causes may be taken by the State from the judgment of the Recorder or substitute Recorder of the Recorder's Court of Durham County in the following cases, and no other: Where judgment has been given for the defendant (1) upon a special verdict; (2) upon a demurrer; (3) upon a motion to quash; and (4) upon arrest of judgment. Where the State appeals, the same requirements as to giving notice and the time within which an appeal must be taken shall be the same as required in cases of appeals by defendants.

Conflicting laws repealed.

SEC. 8. That all laws or clauses of law in conflict herewith are hereby repealed.

SEC. 9. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 452 CHAPTER 97

AN ACT TO FIX THE PER DIEM COMPENSATION OF MEMBERS OF THE RURAL ELECTRIFICATION AUTHORITY.

The General Assembly of North Carolina do enact:

Ch. 288, Public Laws, 1935, amended.

SECTION 1. That Section five of Chapter two hundred eighty-eight of the Public Laws of one thousand nine hundred thirty-five be stricken out and the following substituted in lieu thereof:

Compensation of members of Rural Electrification Authority.

"SEC. 5. All members of the Authority, except the chairman and secretary, shall receive as compensation for their services the sum of seven dollars ($7.00) per day and actual expenses incurred while in the performance of their duties. Members of the Authority shall not be allowed per diem and expenses for more than twelve meetings in any one year."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 464 CHAPTER 98

AN ACT TO AMEND CHAPTER FORTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN WITH REGARD TO THE DUTIES OF ALCOHOLIC BEVERAGE CONTROL OFFICERS AND OTHER PEACE OFFICERS IN ENFORCING PROHIBITION LAWS.

The General Assembly of North Carolina do enact:

Ch. 49, Public Laws, 1937, amended.

SECTION 1. That Section ten (o) of Chapter forty-nine, Public Laws of one thousand nine hundred thirty-seven, as amended by Section one (b) of Chapter four hundred thirty-one, Public Laws of one thousand nine hundred thirty-seven, be, and the same hereby is amended as follows:

Crossing of county lines for arrest of A.B.C. Law violators authorized in cases of "hot pursuit."

By adding at the end thereof the following: "and any person so appointed, or any other peace officer while in hot pursuit of anyone found to be violating the prohibition laws of this State, shall have the right to go into any other county of the State and arrest such offender therein so long as such hot pursuit of such person shall continue, and the common law of hot pursuit shall be applicable to said offenses and such officers."

Further amend said section, as amended, by adding thereto the following: "That any law enforcement officer appointed by such County Board and any other peace officer is hereby authorized, upon request of the sheriff or other lawful officer in any other county, to go into such other county and assist in suppressing a violation of the prohibition law therein, and while so acting shall have such powers as a peace officer as are granted to him in his own county and be entitled to all the protection provided for said officer while acting in his own county."

Assistance by A.B.C. officers to officers of other counties upon request.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 518 **CHAPTER 99**

AN ACT TO MAKE THE TERM OF OFFICE OF REGISTER OF DEEDS OF ALLEGHANY COUNTY FOUR YEARS, FROM AND AFTER THE FIRST MONDAY IN DECEMBER ONE THOUSAND NINE HUNDRED AND FORTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter three hundred sixty-two, Public Laws of North Carolina, session one thousand nine hundred and thirty-five be amended so as to apply to Alleghany County as follows: Before the word "Alexander" and after the word "to" strike out the word Alleghany. The purpose of this Act being to provide for the election of the Register of Deeds of Alleghany County for a term of four years from and after the next general election in one thousand nine hundred and forty.

Ch. 362, Public Laws, 1935, amended.

Four-year term for Register of Deeds, Alleghany County.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 531 **CHAPTER 100**

AN ACT TO PROVIDE FOR THE CELEBRATION OF THE ONE HUNDRED AND FIFTIETH ANNIVERSARY OF THE FOUNDING OF RALEIGH AS THE CAPITAL OF NORTH CAROLINA AND THE APPOINTMENT OF A RALEIGH SESQUI-CENTENNIAL COMMISSION BY THE GOVERNOR FOR SUCH PURPOSE.

Preamble: Selection of Raleigh as capital of North Carolina in 1792.

WHEREAS, the General Assembly of North Carolina in one thousand seven hundred ninety-two selected Raleigh as the site of the Capital of North Carolina; and

150th anniversary in year 1942.

WHEREAS, the year one thousand nine hundred and forty-two will mark the One Hundred and Fiftieth Anniversary of the establishment of the Capital of North Carolina at Raleigh; and

Commemoration of event.

WHEREAS, it is the sense of the General Assembly that this important event should be duly celebrated and commemorated by the State of North Carolina; *Now therefore,*

The General Assembly of North Carolina do enact:

Appointment of commission by Governor to promote and direct celebration.

SECTION 1. That the Governor of North Carolina be, and he is hereby authorized to appoint a commission of five persons who shall have authority to promote and direct an appropriate celebration and commemoration of the One Hundred Fiftieth Anniversary of the selection and establishment of Raleigh as the Capital of North Carolina, and to cooperate to this end with any committee or commission that may be appointed by the City of Raleigh or the County of Wake for the same purpose.

SEC. 2. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 565 **CHAPTER 101**

AN ACT TO RELIEVE DURHAM COUNTY FROM LIABILITY FOR PROPERTY DAMAGES OR PERSONAL INJURIES CAUSED BY DOGS UNDER SECTION ONE THOUSAND SIX HUNDRED EIGHTY-ONE OF THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED AND NINETEEN.

The General Assembly of North Carolina do enact:

C. S., 1919, Sec. 1681, amended, as to payment for damages by dogs, Durham County.

SECTION 1. That Section one thousand six hundred eighty-one of the Consolidated Statutes of one thousand nine hundred nineteen with amendments thereto be, and the same is hereby amend-

ed by adding to the end thereof the following: "And provided also that all that portion of this section after the word 'collected' in line three thereof shall not apply to Durham County."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act be, and the same are hereby, repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification, but shall not be in effect as to those injuries and damages inflicted or sustained before its ratification.

In the General Assembly read three times and ratified, this the 10th day of March, 1939.

H. B. 401 CHAPTER 102

AN ACT TO REVISE THE CONFEDERATE PENSION ROLLS AS TO WIDOWS AND COLORED SERVANTS ELIGIBLE FOR THE BENEFITS OF OLD AGE ASSISTANCE.

The General Assembly of North Carolina do enact:

Removal from pension lists of persons eligible for old age assistance.

SECTION 1. That all widows of Confederate veterans and all colored servants of Confederate soldiers who are eligible for old age assistance under the provisions of Chapter two hundred eighty-eight, Public Laws of one thousand nine hundred thirty-seven, from and after the first day of June, one thousand nine hundred thirty-nine, shall not be entitled to any pension provided by the provisions of Chapter ninety-two, Consolidated Statutes, entitled "Confederate Homes and Pensions," and any Acts of the General Assembly amendatory thereof, or by virtue of any special or general law relating to pensions for widows of Confederate veterans or colored servants of Confederate soldiers.

Determination of eligibility of pensioners for old age assistance by County Boards of Welfare.

SEC. 2. That before the first day of June, one thousand nine hundred thirty-nine, the County Board of Welfare in every county in this State shall make a complete and thorough examination and investigation of all widows of Confederate veterans and all colored servants of Confederate soldiers whose names are on the pension roll in each county, and shall determine the eligibility of such pensioners for old age assistance under the provisions of Chapter two hundred eighty-eight of the Public Laws of one thousand nine hundred thirty-seven, without any applications being made by such persons for old age assistance as required by said law, and after making such investigation, shall determine the eligibility of such persons for old age assistance and the amount of assistance which any such person is entitled to receive in accordance with the provisions of the Old Age Assistance Act. After such investigations and determinations have been made,

Certification to County Pension Board.

the County Board of Welfare shall notify the County Pension Board in the county of such County Board of Welfare of the persons who are found to be eligible for old age assistance under the provisions of said law. Upon such certification to the County Pension Board, the County Pension Board shall revise the list of pensioners in said county and shall exclude from said list all the widows of Confederate veterans and all colored servants of Confederate soldiers who are certified as being eligible for old age assistance. The County Pension Board shall, upon receipt of such certification from the County Board of Welfare, and revision of the pension list as aforesaid, notify the State Board of Pensions of the revision of the pension list for said county and the names eliminated therefrom. The County Board of Welfare, in making the aforesaid certification to the County Pension Board, shall also send a copy thereof to the State Board of Pensions, and such certification from the County Board of Welfare to the State Board of Pensions shall be sufficient authority for removal of such names from the pension list by the State Board of Pensions. If it should thereafter be determined that such person so removed from the pension list was not eligible for old age assistance by the authority administering said law, the award for old age assistance to such person is revoked, the name of such person, if otherwise eligible, shall be restored to the said pension list by the County Pension Board, and the full pension to which such person was entitled, if the name has not been withdrawn from said list, shall be paid.

County pension rolls revised to exclude persons eligible for old age assistance.

Certification of revised list to State Pension Board.

Removal from pension list by State Board of Pensions.

Persons removed to be restored upon failure to qualify for old age assistance.

Old age assistance payments from State and Federal funds.

SEC. 3. That as to all persons found eligible for old age assistance whose names are removed from the pension list as herein required, the amounts necessary for payment of awards for old age assistance shall be paid entirely out of State and Federal funds.

Names retained upon pension rolls in event pension grants exceed old age assistance awards.

SEC. 4. That in the event it is determined by the County Board of Welfare that the awards to which such eligible persons are entitled to receive shall be less than the amount paid such persons as pensions, such names shall not be withdrawn from the said pension list, and the County Board of Welfare shall not make any award of old age benefits to such persons.

Certification of revised list to State Auditor.

SEC. 5. That after the County Pension Board has revised the list of pensions in each county as herein provided, and after having certified the same to the State Board of Pensions, the State Board of Pensions shall certify the revised list of pensioners to the State Auditor and the State Auditor shall transmit to the Clerks of the Superior Court in the several counties a correct revised list of pensioners, with their post offices, as allowed by the State Board of Pensions.

Transmitted to Clerks of Superior Courts.

Ch. 227, Public Laws, 1937, repealed.

SEC. 6. That this law is in substitution for Chapter two hundred twenty-seven Public Laws of one thousand nine hundred

thirty-seven, and Chapter two hundred twenty-seven, Public Laws of one thousand nine hundred thirty-seven is hereby repealed.

SEC. 7. That all laws and parts of laws in conflict herewith are hereby repealed. Conflicting laws repealed.

SEC. 8. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1939.

H. B. 440 CHAPTER 103

AN ACT TO AMEND CHAPTER THREE HUNDRED SEVENTY-NINE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, AS TO CLERKS FEES IN BEAUFORT COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. Section six of Chapter three hundred seventy-nine of the Public Laws of one thousand nine hundred thirty-five, is amended by inserting after the word "dollars" in line nine, a period and striking out all of the remainder of said section. Ch. 379, Public Laws, 1935, amended as to fees of Clerk Superior Court, Beaufort County.

SEC. 2. This Act shall only apply to Beaufort County.

SEC. 3. All laws and clauses of laws in conflict herewith are hereby repealed. Conflicting laws repealed.

SEC. 4. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1939.

H. B. 521 CHAPTER 104

AN ACT TO PERMIT DUPLIN COUNTY TO ASSIGN DEFAULTED TAX LIENS AND TO PERMIT COLLECTION OF THE SAME.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter one hundred eighty-nine, Public Laws of one thousand nine hundred thirty-five, relating to the collection of taxes in Duplin County, be and the same is hereby amended by adding to the end of Section three thereof, the following: "The Board of Commissioners of Duplin County may sell, transfer and assign any tax lien at any time after same has become due with the same right and power in the purchaser to collect as Ch. 189, Public Laws, 1935, amended.

Sale and transfer of tax liens by County Commissioners, Duplin County, authorized.

Rights of purchaser.

the county now has, and the purchaser shall have the right to foreclose same under Section seven thousand nine hundred ninety, Consolidated Statutes, with the right to recover such interest and penalties as the said county would have, and with same immunity as to statute of limitations as would apply to Duplin County, if it had brought suit to foreclose under said section;

Record of transfers.

that all transfers so made by the said Board of Commissioners shall be recorded in a book kept for that purpose, and shall show the year, date and amount of said lien, to whom sold, and the name of the tax debtor."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 13th day of March, 1939.

H. B. 15 CHAPTER 105

AN ACT TO AMEND SECTION SIX THOUSAND AND FIFTY-FOUR OF VOLUME THREE OF THE CONSOLIDATED STATUTES PLACING ALEXANDER COUNTY UNDER THE STATE-WIDE PRIMARY LAW; AND TO EXEMPT SAID COUNTY FROM THE PROVISIONS OF THE ABSENTEE BALLOT LAW IN ALL PRIMARY ELECTIONS.

The General Assembly of North Carolina do enact:

C. S., Vol. 3, Sec. 6054, amended.

Alexander County placed under State-wide Primary Law.

SECTION 1. That Section six thousand and fifty-four of Volume three of the Consolidated Statutes be amended by striking out the word "Alexander" in line four of said section, thus placing Alexander County under the provisions of the State-Wide Primary Law.

Absentee voting abolished in primaries.

SEC. 2. That the provisions of Sections five thousand nine hundred and sixty through five thousand nine hundred and sixty-eight and all amendments thereto of the Consolidated Statutes shall not apply to primary elections in Alexander County, it being the intent and purpose of this Act to exempt Alexander County from the Absentee Ballot Law in all primary elections in said county.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

H. B. 405 **CHAPTER 106**

AN ACT TO AMEND CHAPTER THREE HUNDRED NINETEEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO THE SELECTION OF COUNTY SUPERINTENDENT OF PUBLIC WELFARE.

The General Assembly of North Carolina do enact:

SECTION 1. That Section three of Chapter three hundred nineteen of the Public Laws of one thousand nine hundred thirty-seven, be amended by adding a provision at the end thereof to read as follows:

Sec. 3, Ch. 319, Public Laws, 1937, amended.

"*Provided,* that the County Superintendent of Public Welfare of Wilkes County shall be selected by the County Board of Charities and Public Welfare of said county: *Provided,* that the person so elected shall be approved by the State Board of Charities and Public Welfare and possess the qualifications required under the general rules of said board applicable in other counties of North Carolina."

Selection of County Superintendent of Public Welfare, Wilkes County.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

H. B. 412 **CHAPTER 107**

AN ACT TO AMEND SECTION FIVE HUNDRED NINETY-THREE OF THE CONSOLIDATED STATUTES SO AS TO CLARIFY THE POWER OF THE CLERK OF SUPERIOR COURT TO RENDER DEFAULT JUDGMENTS IN TAX FORECLOSURE ACTIONS.

The General Assembly of North Carolina do enact:

SECTION 1. Section five hundred ninety-three of the Consolidated Statutes, as amended, is hereby amended by adding at the end thereof a new paragraph to read as follows: "In any tax foreclosure action now pending or hereafter brought under the provisions of Section seven thousand nine hundred ninety of the Consolidated Statutes, in which there is filed no answer which seeks to prevent entry of judgment of sale, the Clerk of Superior Court may render judgment of sale and make all necessary subsequent orders and judgments to the same extent as permitted by this section in actions brought to foreclose a mortgage. All such

C. S. 593, amended.

Power of Clerk of Superior Court to enter default judgments in tax foreclosure actions.

Prior judgments and orders validated.

judgments and orders heretofore rendered or made by a Clerk of Superior Court in such tax foreclosure actions are hereby, as to the authority of said clerk, ratified and confirmed."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

H. B. 413 CHAPTER 108

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED AND FORTY-THREE, VOLUME THREE OF THE CONSOLIDATED STATUTES, AS AMENDED BY CHAPTER NINETY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-ONE PROVIDING AN EXTRA CIVIL TERM OF COURT FOR HOKE COUNTY.

The General Assembly of North Carolina do enact:

C. S., Vol. 3, Sec. 1443, amended.

SECTION 1. That Section one thousand four hundred and forty-three of Volume three of the Consolidated Statutes, as amended by Chapter ninety-six of the Public Laws of one thousand nine hundred and thirty-one be amended by adding at the end of the paragraph beginning with the word "Hoke," in Section one of said chapter, the following:

Additional civil term, Superior Court, Hoke County.

"And fifth Monday before the first Monday in September, to continue for one week for the trial of civil cases and no longer."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

H. B. 444 **CHAPTER 109**

AN ACT TO AMEND CHAPTER TWO HUNDRED AND NINETY-TWO OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN RELATING TO THE REAL ESTATE COMMISSION, SO AS TO EXCLUDE NEW HANOVER COUNTY THEREFROM.

The General Assembly of North Carolina do enact:

Sec. 17½, Ch. 292, Public Laws, 1937, amended to exempt New Hanover County from N. C. Real Estate License Act.

SECTION 1. That Section seventeen and one-half, Chapter two hundred and ninety-two of the Public Laws of one thousand nine hundred and thirty-seven be, and the same is hereby, amended by adding the word "New Hanover" between the words "Montgomery" and "Northampton" in line seven of said section.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

H. B. 447 **CHAPTER 110**

AN ACT TO AMEND CHAPTER TWO HUNDRED EIGHTY-ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE WITH REGARD TO INVESTMENTS BY CLERKS OF THE SUPERIOR COURT.

The General Assembly of North Carolina do enact:

Ch. 281, Public Laws, 1931, amended as to investments in savings accounts by Clerks of Superior Court.

SECTION 1. That Chapter two hundred eighty-one of the Public Laws of one thousand nine hundred thirty-one, subsection (f), be, and the same hereby is, amended by adding after the words "time deposit" and before the words "with any bank" the following: "or savings accounts." And further amend said subsection by striking out the words "section four" therein and substituting therefor the words "section three."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

H. B. 460 CHAPTER 111

AN ACT TO AMEND CHAPTER ONE HUNDRED FORTY-EIGHT, OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-SEVEN, RELATING TO PARKING IN FRONT OF FIRE HYDRANT, FIRE STATION OR PRIVATE DRIVEWAY.

The General Assembly of North Carolina do enact:

Ch. 148, Public Laws, 1927, amended, to permit local authorities to regulate parking near fire hydrant.

SECTION 1. That Section twenty-five of Chapter one hundred forty-eight of the Public Laws of one thousand nine hundred twenty-seven be, and the same is hereby, amended by adding at the end thereof the following provision.

"*Provided,* that local authorities may by ordinance decrease the distance within which a vehicle may park in either direction of a fire hydrant."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

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

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

H. B. 583 CHAPTER 112

AN ACT TO AMEND CHAPTER ONE HUNDRED FORTY-SIX, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-SEVEN, AUTHORIZING COUNTY COMMISSIONERS, AT THE REQUEST OF A SOLICITOR, TO FURNISH SPECIAL COUNSEL.

The General Assembly of North Carolina do enact:

Ch. 146, Public Laws, 1927, amended.

SECTION 1. That Section twenty-three of Chapter one hundred forty-six, Public Laws of one thousand nine hundred twenty-seven, be, and the same hereby is amended by adding at the end of said section the following:

Special counsel to assist Solicitors in prosecution of violations of Fiscal Control Act, etc. authorized.

"At the request of the Solicitor, the Board of County Commissioners is authorized, within its discretion, to provide legal assistance to the Solicitor in prosecuting such cases and any other case involving official misconduct or violation of a public trust within said county, and pay the cost of same out of the general fund of the county."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

S. B. 95 **CHAPTER 113**

AN ACT TO PREVENT CLAIMS FOR ADDITIONAL COMPENSATION, FEES OR PAYMENT AFTER SALE OF PHONOGRAPH RECORDS, TRANSCRIPTIONS OR ANY FORM OF RECORDED MUSIC AND ENTERTAINMENT, OR COLLECTION OF LICENSES FOR THE USE OF SAME AFTER SALE, BY ANY PERFORMING ARTIST, MANUFACTURER OR ORGANIZATION REPRESENTING SUCH PERFORMING ARTIST OR MANUFACTURER, AND TO PROTECT THE PURCHASER THEREOF IN ITS OR THEIR USE FOR ANY PURPOSE WHATSOEVER.

The General Assembly of North Carolina do enact:

Collection of royalties on phonograph records or electrical transcriptions sold in commerce prohibited.

SECTION 1. That when any phonograph record or electrical transcription, upon which musical performances are embodied, is sold in commerce for use within this State, all asserted common law rights to further restrict or to collect royalties on the commercial use made of such recorded performances by any person is hereby abrogated and expressly repealed. When such article or chattel has been sold in commerce, any asserted intangible rights shall be deemed to have passed to the purchaser upon the purchase of the chattel itself, and the right to further restrict the use made of phonograph records or electrical transcriptions, whose sole value is in their use, is hereby forbidden and abrogated.

Intangible rights pass to purchaser.

Restriction of use prohibited after sale.

Construction of Act.

SEC. 2. That nothing in this Act shall be deemed to deny the rights granted any person by the United States Copyright Laws. The sole intendment of this enactment is to abolish any common law rights attaching to phonograph records and electrical transcriptions, whose sole value is in their use, and to forbid further restrictions of the collection of subsequent fees and royalties on phonograph records and electrical transcriptions by performers who were paid for the initial performance at the recording thereof.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

S. B. 113 CHAPTER 114

AN ACT TO PROMOTE SAFETY ON THE HIGHWAY.

The General Assembly of North Carolina do enact:

Operation of flat trucks on State highways regulated.

SECTION 1. That it shall be unlawful for any person, firm or corporation to operate, or have operated on any public highway in the State any open, flat truck loaded with logs, cotton bales, boxes or other load piled on said truck, without having the said load securely fastened on said truck.

Violations made misdemeanor.

SEC. 2. That any person violating the provisions of this Act shall be guilty of a misdemeanor and upon conviction shall be fined not more than fifty dollars or imprisoned not more than thirty days.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

S. B. 207 CHAPTER 115

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED AND SIXTY-FOUR OF THE CONSOLIDATED STATUTES PERTAINING TO CUSTODY OF CHILDREN OF DIVORCED PARENTS IN CASES WHERE DIVORCE WAS GRANTED OUTSIDE OF NORTH CAROLINA.

The General Assembly of North Carolina do enact:

C. S. 1664, amended, as to proceedings for determination of custody of children of parents divorced outside of North Carolina.

SECTION 1. Amend Section one thousand six hundred and sixty-four of the Consolidated Statutes of North Carolina by adding at the end of said section the following: "*Provided* custody of children of parents who have been divorced outside of North Carolina may be determined in a special proceeding instituted by either of said parents in the Superior Court of the county wherein the petitioner, at the time of filing said petition, is a resident".

Hearing before Resident Judge.

SEC. 2. That the Resident Judge of the district wherein the petition is filed may hear the facts and determine the custody of said children at any place that may be designated in his district after five days notice of said proceedings to the defendant.

Service of summons by publication on nonresident defendants.

SEC. 3. Notice of the summons and petition in said proceedings may be served on a nonresident defendant by publishing a notice thereof setting forth the grounds and nature of the pro-

ceedings in a newspaper published in the county wherein the petitioner resides once a week for a period of four successive weeks and by posting a copy thereof at the courthouse door of said county for a period of thirty days. Service as aforesaid in said action will be deemed complete thirty days after the date of the first publication of said notice.

SEC. 4. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

H. B. 144 CHAPTER 116

AN ACT TO AMEND CHAPTER ONE HUNDRED SIXTY-FOUR OF THE PUBLIC LAWS OF NINETEEN HUNDRED TWENTY-NINE RELATIVE TO THE METHOD OF MARKING BALLOTS IN A GENERAL ELECTION.

The General Assembly of North Carolina do enact:

SECTION 1. That Subsection (b) of Section nine of Chapter one hundred sixty-four of the Public Laws of nineteen hundred twenty-nine, as amended, be amended by striking out all of instruction number "two" and substituting the following instruction number two in lieu thereof: Sec. 9, subsection (b), Ch. 164, Public Laws, 1929, amended, as to instructions printed on ballots, for voting a mixed ticket.

"2. To vote a mixed ticket, or in other words for candidates of different parties, either omit making a cross (X) mark in the party circle at the top and mark in the voting square opposite the name of each candidate on the ballot for whom you wish to vote; or, make a cross (X) mark in the party circle above the name of the party for some of whose candidates you wish to vote, and then mark in the voting squares opposite the names of any candidates of any other party for whom you wish to vote."

SEC. 2. That Section twenty-eight of Chapter one hundred sixty-four of the Public Laws of nineteen hundred twenty-nine, as amended by Section twenty-three of Chapter one hundred sixty-five of the Public Laws of nineteen hundred thirty-three, be amended by striking out rule number "two" on the method of marking ballots and substituting the following rule in lieu thereof: Sec. 28, amended, as to method prescribed for voting a mixed ticket.

"2. If the elector desires to vote a mixed ticket, or in other words for candidates of different parties, he shall, either,

(a) Omit making a cross mark in the party circle above the name of any party and make a cross mark in the voting square opposite the name of each candidate for whom he desires to vote on whatever ticket he may be; or

(b) Make a cross mark in the party circle above the name of the party for some of whose candidates he desires to vote, and then make a cross mark in the voting square opposite the name of any candidates of any other party for whom he may desire to vote, in which case, the cross mark in the party circle above the name of a party will cast the elector's vote for every candidate on the ticket of such party, except for offices for which candidates are marked on other party tickets, and the cross marks before the names of such candidates will cast the elector's vote for them."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect after its ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

H. B. 317 CHAPTER 117

AN ACT VALIDATING, RATIFYING, APPROVING, AND CONFIRMING CERTAIN BONDS AND OTHER INSTRUMENTS OR OBLIGATIONS HERETOFORE ISSUED, AND VALIDATING, RATIFYING, APPROVING AND CONFIRMING CERTAIN PROCEEDINGS HERETOFORE TAKEN BY TOWNS, CITIES, COUNTIES AND SANITARY DISTRICTS OF THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Title of Act.

SECTION 1. That this Act may be cited as "The one thousand nine hundred thirty-nine Validating Act."

Definitions.

SEC. 2. That the following terms, wherever used or referred to in this Act, shall have the following meaning:

"Public body."

(a) The term "public body" means any town, city, county or sanitary district of this State.

"Bonds."

(b) The term "bonds" includes bonds, notes, warrants, de-

bentures, certificates of indebtedness, temporary bonds, temporary notes, interim receipts, interim certificates and all instruments or obligations evidencing or representing indebtedness, or evidencing or representing the borrowing of money, or evidencing or representing a charge, lien or encumbrance on specific revenues, income or property of a public body or all instruments or obligations payable from a special fund.

Bonds issued by local units to aid public works projects validated.

SEC. 3. That all bonds heretofore issued for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant has heretofore been made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of such bonds, and the sale, execution, and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body or the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings or in such sale, execution or delivery and notwithstanding that such governing body or commission or officers may not have been elected, appointed or qualified for the offices they purported to hold and notwithstanding the fact that the person or persons who signed such bonds may not have been officers of the public body on either the date of the signing or on the date of the delivery thereof; and such bonds are and shall be binding, legal, valid and enforceable obligations of such public body.

Proceedings for issuance and sale of bonds, etc. validated.

SEC. 4. That all proceedings which have been taken prior to the date this Act takes effect, for the purpose of financing or aiding in the financing of any work, undertaking or project by any public body to which any loan or grant is under contract to be made by the United States of America through the Federal Emergency Administrator of Public Works for the purpose of financing or aiding in the financing of such work, undertaking or project, including all proceedings for the authorization and issuance of bonds, and for the sale, execution and delivery thereof, are hereby validated, ratified, approved and confirmed, notwithstanding any lack of power (other than constitutional) of such public body of the governing body or commission or officers thereof, to authorize and issue such bonds, or to sell, execute or deliver the same, and notwithstanding any defects or irregularities (other than constitutional) in such proceedings, and notwithstanding that such governing body may not have been elected, appointed or qualified for the offices they purported to hold.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

H. B. 319 CHAPTER 118

AN ACT TO DECLARE VALID AND LEGAL THE CREATION AND ESTABLISHMENT OF HOUSING AUTHORITIES, AND ALL CONTRACTS, BONDS, NOTES, AGREEMENTS, OBLIGATIONS AND UNDERTAKINGS OF SUCH HOUSING AUTHORITIES, AND ALL PROCEEDINGS, ACTS AND THINGS HERETOFORE UNDERTAKEN, PERFORMED OR DONE WITH REFERENCE THERETO.

The General Assembly of North Carolina do enact:

Creation and establishment of housing authorities under 1935 Housing Authority Law validated.

SECTION 1. That the creation and establishment of housing authorities under the provisions of Chapter four hundred fifty-six of the Public Laws of one thousand nine hundred thirty-five, known as the Housing Authorities Law, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any want of statutory authority or any defects or irregularity therein.

Contracts, agreements, etc. entered into by housing authorities validated.

SEC. 2. That all contracts, agreements, obligations and undertakings of such housing authorities heretofore entered into relating to financing or aiding in the development, construction, maintenance or operation of any housing project or projects or to obtaining aid therefor from the United States Housing Authority, including (without limiting the generality of the foregoing) loan and annual contributions contracts and leases with the United States Housing Authority, agreements with municipalities or other public bodies (including those which are pledged or authorized to be pledged for the protection of the holders of any notes or bonds issued by such housing authorities or which are otherwise made a part of the contract with such holders of notes or bonds) relating to cooperation and contributions in aid of housing projects, payments (if any) in lieu of taxes, furnishing of municipal services and facilities, and the elimination of unsafe and insanitary dwellings, and contracts for the construction of housing projects, together with all proceedings, acts and things heretofore undertaken, performed or done with reference thereto, are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any want of statutory authority or any defect or irregularity therein.

SEC. 3. That all proceedings, acts and things heretofore undertaken, performed or done in or for the authorization, issuance, execution and delivery of notes and bonds by housing authorities for the purpose of financing or aiding in the development or construction of a housing project or projects, and all notes and bonds heretofore issued by housing authorities are hereby validated, ratified, confirmed, approved and declared legal in all respects, notwithstanding any want or statutory authority or any defect or irregularity therein.

Proceedings for issuance, etc. of bonds and notes, validated.

Bonds and notes validated.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

H. B. 457 CHAPTER 119

AN ACT TO AMEND CHAPTER FOUR HUNDRED AND EIGHTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE RELATIVE TO FEES OF GAME AND DEPUTY GAME PROTECTORS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section nine, Chapter four hundred and eighty-six, Public Laws of one thousand nine hundred and thirty-five, be amended by striking out all but the first five lines thereof and inserting in lieu thereof the following:

Ch. 486, Public Laws, 1935, amended, to provide for payment of arrest fees under N. C. Game Law, etc. to general school funds.

"The arrest fee taxed in bills of cost in criminal actions growing out of the violation of this Act or violation of laws regulating fishing, except commercial fishing, when the arrest is made by a game protector or a deputy game protector, shall be paid by the Justice of the Peace or other Criminal Court taxing same into the general school fund of the county where the violation took place. No fee shall be taxed in bills of cost for the use and benefit of a game protector or deputy game protector, who appears as a witness at the trial of such case. Any game protector or deputy game protector, who takes arrest fees or witness fees in violation of this Act, shall be guilty of a misdemeanor and, upon conviction, shall be fined or imprisoned or both in the discretion of the court, and in addition thereto, upon conviction, he shall forfeit his office. This Act shall not apply to Sheriffs or deputy sheriffs, who are on fee basis and who make arrests and appear as witnesses in such cases. In no event shall the cost of an action involving the violation of the game and fish laws be taxed against the county or state."

No witness fees allowed for game or deputy game protector.

Act inapplicable to sheriffs or deputy sheriffs on fee basis.

Conflicting laws repealed

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Effective date.

SEC. 3. That this Act shall be in full force and effect from and after July first, one thousand nine hundred and thirty-nine.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

H. B. 551 CHAPTER 120

AN ACT TO AMEND CHAPTER TWO HUNDRED AND SEVEN, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO THE REGULATION OF SETTING FIRES IN AREAS UNDER THE PROTECTION OF THE STATE DEPARTMENT OF CONSERVATION AND DEVELOPMENT.

The General Assembly of North Carolina do enact:

Sec. 1, Ch. 207, Public Laws, 1937, amended to change dates within which starting of fires is prohibited near areas under protection of State Forest Service.

SECTION 1. That Section one of Chapter two hundred and seven, Public Laws of one thousand nine hundred thirty-seven, be amended by striking out, after the comma following the word "area" in line five, the words in lines five, six, and seven "between the first day of April and the fifteenth day of June, inclusive, or between the fifteenth day of October and the first day of December, inclusive, in any year," and inserting in lieu thereof the following: "between the first day of February and the first day of June, inclusive or between the first day of October and the thirtieth day of November, inclusive, in any year."

Sec. 3, amended, as to penalty for violations.

SEC. 2. That Section three of said chapter be amended by striking out, after the comma following the word "misdemeanor" in line two of said section, the words in lines two and three "and shall be fined or imprisoned in the discretion of the court," and inserting in lieu thereof the following: "and upon conviction shall be fined not more than fifty (50) dollars, or imprisoned for a period of not more than thirty (30) days."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

H. B. 743 **CHAPTER 121**

AN ACT TO AMEND SECTION TWO THOUSAND SEVEN HUNDRED NINETY-THREE (d) OF THE CONSOLIDATED STATUTES INSOFAR AS IT RELATES TO THE TOWN OF WHITAKERS IN NASH AND EDGECOMBE COUNTIES.

The General Assembly of North Carolina do enact:

SECTION 1. That Section two thousand seven hundred ninety-three (d) of the Consolidated Statutes, insofar as it relates to the Town of Whitakers, be, and the same is hereby, repealed.

C. S. 2793 (d) repealed, making applicable to Town of Whitakers, Sections on cities' power to improve streets, etc.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of March, 1939.

S. B. 35 **CHAPTER 122**

AN ACT TO PROHIBIT UNITS OF GOVERNMENT ENGAGING IN BUSINESS IN COMPETITION WITH TAX-PAYING CITIZENS.

The General Assembly of North Carolina do enact:

SECTION 1. That it shall be unlawful for any unit or agency of State Government or any individual employee or employees of any such unit or agency in his, or her, or their capacity as employee or employees of said unit or agency to purchase for or sell to any person, firm or corporation any article of merchandise in competition with citizens of the State: *Provided, however,* that as regards educational institutions, the provisions of this Act shall not apply to articles produced incident to the operation of an instructional department, or incident to educational research, or to articles of merchandise incident to classroom work, meals, books and/or other articles of merchandise not exceeding fifteen cents in value when sold to members of the educational staff, or staff auxiliary to education, or sold to duly enrolled students, or to members of charitable institutions, or on occasion to immediate members of the families of members of the educational staff or of duly enrolled students: *Provided further,* that the provisions of this Act shall not apply to the sale of meals, or merchandise aforesaid, to persons attending meetings or conventions at State institutions as invited guests of such institutions, or to the products

Sale of merchandise by governmental units in competition with taxpayers prohibited.

Exceptions.

Exceptions continued.

of experiment stations at any State institution: *Provided further,* that the provisions of this Act shall not apply to the sale of learned journals or books, or to the business operation of endowment funds established for the purpose of producing income for educational purposes: *Provided further,* that the provisions of this Act shall not apply to counties and municipalities, to the State Board of Health, to the Division of Purchase and Contract, to the State Highway and Public Works Commission, to State Hospitals for the Insane, to the State Commission for the Blind, to the North Carolina School for the Blind at Raleigh, to the North Carolina School for the Deaf at Morganton, to Appalachian State Teachers College at Boone, to Western Carolina Teachers College at Cullowhee, or to any State correctional institutions or agencies, or to farm, dairy, livestock, or poultry products of any State institution or agency; *Provided* that nothing in this Act shall apply to Highlands School in Macon County: *Provided further,* that this Act shall not be construed to apply to any high school or public school: *Provided further,* that this Act shall not apply to child-caring institutions or orphanages receiving State aid.

Penalty for violations.

SEC. 2. That any person knowingly or willfully violating the provisions of this Act shall be subject to a fine of ten dollars for each such violation.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Effective date.

SEC. 4. That this Act shall be in full force and effect from and after the first day of July, one thousand nine hundred thirty-nine.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. B. 106 CHAPTER 123

AN ACT TO PROVIDE FOR THE PLACEMENT OF NEEDY BLIND PERSONS IN VENDING STANDS IN PUBLIC BUILDINGS AND TO COOPERATE WITH THE FEDERAL GOVERNMENT IN THE FURTHERANCE OF THE PROVISIONS OF THE ACT OF CONGRESS KNOWN AS THE RANDOLPH-SHEPPARD BILL.

The General Assembly of North Carolina do enact:

State Blind Commission to promote employment of needy blind persons.

SECTION 1. That for the purpose of assisting blind persons to become self-supporting, the North Carolina State Commission for the Blind is hereby authorized to carry on activities to promote the employment of needy blind persons, including the licensing and establishment of such persons as operators of vending stands in public buildings. The said Commission may cooperate with the Federal Government in the furtherance of the provisions of the Act of Congress known as the Randolph-Sheppard Bill (H. R.

Operation of vending stands in public buildings.

4688) providing for the licensing of blind persons to operate vending stands in Federal Buildings, or any other Acts of Congress which may be hereafter enacted.

Operation of stands in Federal buildings.

SEC. 2. That the Board of County Commissioners of each county and the commissions or officials in charge of various State and municipal buildings are hereby authorized and empowered to permit the operation of vending stands by needy blind persons on the premises of any State, county or municipal property under their respective jurisdictions; *provided*, that such operators shall be first licensed by the North Carolina State Commission for the Blind, and *provided further*, that in the opinion of the commissions or officials having control and custody of such property, such vending stands may be properly and satisfactorily operated on such premises without undue interference with the use and needs thereof for public purposes.

Permission for operation of stands from officials in charge of public buildings.

Operators to be licensed by State Blind Commission.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. B. 112 CHAPTER 124

AN ACT TO AUTHORIZE THE NORTH CAROLINA STATE COMMISSION FOR THE BLIND TO RECEIVE GRANTS IN AID FROM THE FEDERAL GOVERNMENT FOR REHABILITATION AND OTHER SERVICES AND MEDICAL AND SURGICAL TREATMENT OF THE NEEDY BLIND AND TO SUPPLEMENT CHAPTER ONE HUNDRED AND TWENTY-FOUR, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, AND CHAPTER FIFTY-THREE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE.

The General Assembly of North Carolina do enact:

SECTION 1. That the North Carolina State Commission for the Blind is hereby authorized and empowered to receive grants in aid from the Federal Government or any State or Federal agency for the purpose of rendering other services to the needy blind and those in danger of becoming blind; and all such grants so made and received shall be paid into the State Treasury and credited to the account of the North Carolina State Commission for the Blind, to be used in carrying out the provisions of this Act.

State Blind Commission authorized to receive grants in aid for benefit of needy blind.

Grants credited to account of N. C. State Commission for Blind.

Rules and regulations for receiving Federal funds.

SEC. 2. That the North Carolina State Commission for the Blind is hereby further authorized and empowered to make such rules and regulations as may be required by the Federal Government or State or Federal agency as a condition for receiving such Federal funds, not inconsistent with the laws of this State.

Supplemental definition of "Social Security Board."

SEC. 3. That whenever the words "Social Security Board" appear in Chapter one hundred and twenty-four of Public Laws of one thousand nine hundred and thirty-seven, the same shall be interpreted to include any agency of the Federal Government which may be substituted therefor by law.

Reciprocal agreements with public welfare agencies of other states authorized.

SEC. 4. That the North Carolina State Commission for the Blind is hereby authorized and empowered to enter into reciprocal agreements with public welfare agencies in other states relative to the provision of assistance and services to residents, non-residents, or transients, and cooperate with other agencies of the State and Federal Governments in the provision of such assistance and services and in the study of the problems involved.

Regulations for custody, use and preservation of records, etc. of Commission.

SEC. 5. That the North Carolina State Commission for the Blind is hereby authorized and empowered to establish and enforce reasonable rules and regulations governing the custody, use and preservation of the records, papers, files, and communications of the department.

"Blindness" as used in previous Acts defined.

SEC. 6. That whenever a definition of blindness appears in Chapter one hundred and twenty-four of Public Laws of one thousand nine hundred and thirty-seven or Chapter fifty-three of Public Laws of one thousand nine hundred and thirty-five, the same shall be interpreted to include any persons who have no vision or whose vision with glasses is so defective as to prevent the performance of ordinary activities for which eyesight is essential.

Residence requirements for eligibility of applicants for aid under Ch. 124, Public Laws, 1937, and Ch. 53, Public Laws, 1935.

SEC. 7. That residence requirements for eligibility of applicants for aid to needy blind or for other benefits provided in Chapter one hundred and twenty-four of Public Laws of one thousand nine hundred and thirty-seven and in Chapter fifty-three of Public Laws of one thousand nine hundred and thirty-five are hereby amended to provide, in lieu of the provisions in said laws, that the applicant was a resident of the State of North Carolina for one year immediately preceding the date of application.

Conflicting laws repealed.

SEC. 8. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 9. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. B. 118 CHAPTER 125

AN ACT TO AMEND THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED NINETEEN, SECTION SEVEN THOUSAND FIVE HUNDRED SEVENTY-FIVE, FIXING THE PRICE FOR LAND GRANTED IN MOORE COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That the Consolidated Statutes of one thousand nine hundred nineteen, Section seven thousand five hundred seventy-five, be, and the same hereby is amended by adding at the end of said section, as amended, the following: "*Provided,* that for each acre of land entered in Moore and Avery Counties, there shall be paid to the State Treasurer the sum of not less than one and one-half dollars ($1.50)." C. S., 1919, Sec. 7575, amended, as to price for grants of vacant and unappropriated State lands, Moore and Avery Counties.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. B. 119 CHAPTER 126

AN ACT TO PREVENT DIPHTHERIA REQUIRING DIPHTHERIA IMMUNIZATION OF CHILDREN.

The General Assembly of North Carolina do enact:

SECTION 1. The parent or parents or guardian of any child in North Carolina shall have administered to such child between the ages of six months and twelve months an immunizing dose of a prophylactic diphtheria agent which meets the standard approved by the United States Public Health Service for such biologic products. Diphtheria immunization of children between ages of six and twelve months.

SEC. 2. The parent or parents or guardian of any child in North Carolina between the ages of twelve months and five years who has not been previously immunized against diphtheria, shall have administered to such child an immunizing dose of prophylactic diphtheria agent which meets the standard approved by the United States Public Health Service for such biologic products. Immunization of children between ages of twelve months and five years not previously immunized.

SEC. 3. (a). It shall be incumbent upon the parent or parents or guardian of such child to present said child to a regularly licensed physician in the State of North Carolina, of his or her or their own choice, and request said physician to render this pro- Immunization by private physician.

Immunization by County Health Officer in event parents are unable to afford services of private physician.

fessional service. If the said parent or parents or guardian of such child are unable to pay for the services of a private physician of his or her or their own choice, they shall then present such child to the County Health Officer in the county in which such child resides and ask that an immunizing dose of prophylactic diphtheria agent which meets the standard approved by the United States Public Health Service for such biologic products, be administered, and such County Health Officer shall administer such treatment.

Immunization by County Physician in counties where no regularly employed Health Officer is provided.

(b). If there is no regularly employed Health Officer in the given county in which the indigent parent or parents or guardian referred to in Section three (a) resides, the parent or parents or guardian of the indigent child shall present such child to the County Physician, who shall then administer the prophylactic diphtheria agent or secure the services of another regularly licensed physician in such county and pay such physician for such services to the said indigent child out of such funds of said county as are provided for such purposes.

Certificate of immunization.

SEC. 4. A certificate giving the name and address of the parent, parents or guardian, the name and age of the child and the date of the administration of the prophylactic agent, shall be submitted by the physician rendering this professional service to the local Health Officer, and in instances where there is no Health Officer, said certificate shall be submitted to the County Physician. Such certificate shall be kept on file as a permanent record by the local County Registrar for births. Furthermore, such certificate of immunization shall be presented to school authorities upon admission to any public, private or parochial school in North Carolina.

Violations made misdemeanor.

SEC. 5. Any wilful violation of this Act, or any part thereof, shall constitute a misdemeanor and shall be punishable at law by a fine of not more than fifty dollars ($50.00) or by imprisonment for not more than thirty (30) days, in the discretion of the court.

Members of certain religious organizations exempt from provisions of Act.

SEC. 5½. *Provided* this Act shall not apply to children whose parent or parents or guardians are bona fide members of a religious organization whose teachings are contrary to the practices herein required, and no certificates for admission to any public, private or parochial school shall be required as to them.

SEC. 6. This Act shall be in full force and effect from, on and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. B. 174

CHAPTER 127

AN ACT PROVIDING FOR THE EXTINGUISHMENT OF ANY PRIVATE RIGHT TO OPERATE ANY TOLL ROAD OR TOLL BRIDGE THROUGH, IN, OR UPON ANY STATE LANDS OWNED AND USED BY THE STATE AS A PUBLIC PARK.

The General Assembly of North Carolina do enact:

Private operation of toll roads or bridges upon public parks, prohibited.

SECTION 1. That no person, firm or corporation shall have the right or privilege to privately operate any toll road or toll bridge in this State upon lands belonging to the State, set apart or designated as a public park.

Notice of discontinuation of present operations.

SEC. 2. In the event any such toll road or bridge is at the time of the ratification of this Act being privately operated under any real or assumed right, privilege, or lease, the State institution or department having such State-owned property in charge or under its supervision shall immediately give notice to such person, firm or corporation so operating such toll road or toll bridge to discontinue the operation of the same.

Compensation for damages.

SEC. 3. That any person, firm or corporation who sustains any legal damage by reason of the exercise of the authority hereinbefore granted shall be entitled to just compensation therefor, and, in the event satisfactory settlement cannot be made with the department or State agency exercising the authority herein contained, the amount of just compensation may be determined by a special proceeding instituted by the claimant against the department or agency having such property in custody under the provisions of Chapter thirty-three of the Consolidated Statutes, in so far as the same may be applicable hereto: *Provided,* such proceeding shall be instituted within six months from the time such notice is given.

Proceedings for determination of compensation in cases of disagreement.

Time limitation on proceeding for compensation.

SEC. 4. Any compensation awarded shall be a valid claim against the State of North Carolina, payable out of the funds of the department or State agency having such property in charge.

Conflicting laws repealed.

SEC. 5. That all laws and clauses of laws in conflict with the provisions of this Act, or to the extent of such conflict, are hereby repealed.

SEC. 6. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. B. 212 **CHAPTER 128**

AN ACT TO AMEND SECTION FIVE THOUSAND ONE HUNDRED SEVENTY-ONE OF THE CONSOLIDATED STATUTES RELATING TO BUILDING AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina do enact:

C., S., 1919, Sec. 5171, amended, as to amendments, etc. of certificates of incorporation of building and loan associations.

SECTION 1. That Section five thousand one hundred seventy-one of the Consolidated Statutes of one thousand nine hundred nineteen be, and the same is, hereby amended to read as follows:

"5171. Amendments to certificate. Any addition, alteration or amendment of the certificate of incorporation of any building and loan association shall be made at any annual or special meeting of such association, held in pursuance of the provisions of Chapter ninety-three of the Consolidated Statutes, Sub-chapter one, as amended by Chapter nineteen of the Public Laws of one thousand nine hundred thirty-three, by a majority of the shareholders present in person or represented by proxy at any such meeting, and any such addition, alteration or amendment shall be signed, certified, and recorded as is provided in the preceding section."

Prior amendments, etc. validated.

SEC. 2. All additions, alterations or amendments of the certificate of any building and loan association made prior to the ratification of this Act, and which failed to comply with all of the provisions of the statutes of North Carolina applicable thereto, be, and the same are hereby declared to be sufficient and valid to the same extent as if the provisions of said statutes had been fully complied with.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. B. 221 **CHAPTER 129**

AN ACT TO AMEND SECTION THIRTY-TWO, CHAPTER SIXTY, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE, AS AMENDED, SO AS TO REWRITE AND REENACT SAID SECTION.

The General Assembly of North Carolina do enact:

Sec. 32, Ch. 60, Public Laws, 1931, Local Government Act, amended.

SECTION 1. That Section thirty-two, Chapter sixty, Public Laws of one thousand nine hundred thirty-one, as amended by Section seven, Chapter two hundred ninety-six of the Public

Laws of one thousand nine hundred thirty-one and Section one, Chapter three hundred seventy-five of the Public Laws of one thousand nine hundred thirty-five, be, and the same hereby is, repealed and reenacted so that the same shall read as follows:

"It shall be the duty of each officer having charge or custody of funds of a unit, of whatever kind or nature or for whatever purpose the same has been raised or shall be held, to keep them safely and to deposit the same in the depository or depositories designated in the manner provided by law; but before making such deposit, if the amount then on deposit shall exceed the amount insured by the Federal Deposit Insurance Corporation, he shall require of said depository or depositories that the excess of such deposit over and above the amount so insured shall be secured by a surety bond or bonds, issued by a surety company or companies authorized to transact business in the State of North Carolina, the form of such surety bonds to be approved by the commission in an amount sufficient to protect such excess deposits; but the commission may, at any time, in its discretion, require an additional bond: *Provided, however*, that in lieu of a surety bond both as to all or any part of such excess deposits it shall be lawful to secure the same by lodging with the proper custodian hereinafter provided for such securities as are by this Act made eligible for investment of sinking funds of local units, such securities to be selected under the terms and conditions of investments of such sinking funds, including approval of certain classes of securities by the commission. Any bank or trust company furnishing United States Government bonds, North Carolina State bonds, county or municipal bonds, as security for such excess deposits, shall deposit said bonds with another bank which has been approved by the commission as a depository bank for such purposes, the State Treasurer, or the Federal Reserve Bank, and said bonds when so deposited shall be held for the benefit of the unit and subject to the order of the governing body or board of such unit, and subject to the inspection at any time by a representative of the governing body or board of such unit and by a representative of the commission. Each such officer having charge or custody of the funds of a unit and the surety or sureties on his official bond, after a deposit of said funds has been secured by him in the manner hereinabove required, shall not be liable for any losses sustained by the unit by reason of the default or the insolvency of the said depository or depositories. No security shall be required for the protection of funds of a unit remitted to and received by any bank or trust company within or without the State of North Carolina for the sole and exclusive purpose of paying the maturing principal of or interest on bonds or notes of the unit, when such bank or trust company is the agreed place of payment of such principal or interest and when such funds are remitted within sixty days prior to the maturity of such principal or interest."

Deposit of funds of local units in designated depositories.

Security required for deposits in excess of amount insured by Federal Deposit Insurance Corporation.

Securities eligible for investment of sinking funds, approved in lieu of surety bond.

Designation of authorized custodians.

Officials relieved of liability upon compliance.

Funds remitted to Bank for payment of maturing principal, etc. exempt.

Conflicting laws.

SEC. 2. That all laws and clauses of laws, except Section four, Chapter seventy-one, Public Laws of one thousand nine hundred thirty-five as amended by Section four, Chapter three hundred thirty-three, Public Laws of one thousand nine hundred thirty-seven, in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

H. B. 281 CHAPTER 130

AN ACT REQUIRING EVERY FOREIGN FRATERNAL BENEFIT SOCIETY TRANSACTING BUSINESS IN THIS STATE TO APPOINT THE INSURANCE COMMISSIONER AND HIS SUCCESSOR IN OFFICE AS ITS ATTORNEY UPON WHOM ALL LEGAL PROCESS IN ANY ACTION OR PROCEEDING AGAINST IT SHALL BE SERVED AND PROVIDING THAT NO SUCH SERVICE SHALL BE VALID OR BINDING AGAINST SUCH SOCIETY WHEN IT IS REQUIRED THEREUNDER TO FILE ANSWER, PLEADING OR DEFENSE IN LESS THAN THIRTY DAYS FROM THE DATE OF MAILING A COPY OF SUCH SERVICE TO SUCH SOCIETY.

The General Assembly of North Carolina do enact:

Appointment of Insurance Commissioner as process agent by foreign fraternal benefit societies.

SECTION 1. Every foreign fraternal benefit society except labor organizations which limit their admission to membership to persons engaged in one or more hazardous occupations in the same or similar lines of business now transacting business in this State shall, within thirty days after the passage of this Act, and every such society hereafter applying for admission shall, before being licensed, appoint in writing the Insurance Commissioner and his successors in office to be its true and lawful attorney upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this State. Copies of such appointment, certified by said Insurance Commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service shall be made in duplicate upon the Insurance Commissioner, or in his absence upon the person in charge of his office, and shall be deemed sufficient service upon said society. When legal service

Service of process made in duplicate.

against any such society is served upon said Insurance Commissioner he shall forthwith forward by registered mail one of the duplicate copies, prepaid and directed to its secretary or corresponding officer. No such service shall be valid or binding against any such society when it is required thereunder to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of such service to such society. Legal process shall not be served upon any such society except in the manner provided therein. As a condition precedent to a valid service of process and of the duty of the Commissioner in the premises, the plaintiff shall pay to the Insurance Commissioner at the time of service the sum of one ($1.00) dollar, which the plaintiff shall recover as taxable costs if he prevails in his action.

Copy to defendant by registered mail.

Thirty days from date of mailing copy, allowed as time within which to plead.

Fee to Insurance Commissioner.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. This Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

H. B. 639 CHAPTER 131

AN ACT TO AMEND CHAPTER FORTY-NINE, SECTION SIX, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, AS TO METHOD OF SELECTION OF COUNTY BOARD OF ALCOHOLIC CONTROL, IN PASQUOTANK COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section six of Chapter forty-nine of the Public Laws of one thousand nine hundred thirty-seven, be, and the same is hereby, amended by striking out the words "the County Board of Health and the County Board of Education," in line eight and substituting and inserting in lieu thereof the words "the Board of Aldermen of the City of Elizabeth City;" and further amend said section by striking out the words "notwithstanding the fact there may be instances in which some members are members of another board" in lines nine, ten and eleven: *Provided, further,* that this shall apply only to Pasquotank County.

Ch. 49, Public Laws, 1937, amended as to selection of County Board of Alcoholic Control, Pasquotank County.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. B. 57 **CHAPTER 132**

AN ACT TO AMEND CHAPTER TWO HUNDRED FORTY-THREE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE, AS AMENDED BY CHAPTER FOUR HUNDRED TWENTY-TWO, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, RELATING TO ADOPTION OF MINORS.

The General Assembly of North Carolina do enact:

Sec. 1, Ch. 243, Public Laws, 1935, as amended by Ch. 422, Public Laws, 1937, further amended.

SECTION 1. That Subsection one of Section one, Chapter two hundred forty-three of the Public Laws of one thousand nine hundred thirty-five, be amended by striking out in line nine, following the word "child," and in lines ten and eleven, the clause: "*Provided,* that in every instance where the child is born outside of the State of North Carolina, said child shall have been an actual resident of this State for a period of at least one year," as amended by Chapter four hundred twenty-two of the Public Laws of one thousand nine hundred and thirty-seven, and by inserting in lieu thereof, the following:

Consent, etc. of State Board of Charities and Public Welfare, required for adoption or placement of "non resident" minors.

"*Provided,* that in every instance when the parent, guardian or custodian of the child is not a citizen or resident of the State of North Carolina at the time of filing of petition for adoption, or where the child has been brought into the State for the purpose of placement and adoption by a parent, person, agency, institution or association, the provisions of Chapter two hundred twenty-six of the Public Laws of one thousand nine hundred and thirty-one must be complied with before the child is eligible for adoption."

Sec. 1, Subsection 5, amended as to inheritance rights of adopted child.

SEC. 2. That Subsection five of Section one, Chapter two hundred forty-three of the Public Laws of one thousand nine hundred and thirty-five, be amended by striking out in lines fourteen and fifteen of the said subsection, after the word "inherit" and before the word "if," the words "and be entitled to the personal estate," and by inserting in lieu thereof the words "the real estate or be entitled to the personal estate, either or both."

New subsection added.

SEC. 3. That a Subsection twelve be added to Section one of Chapter two hundred forty-three, Public Laws of one thousand nine hundred and thirty-five, as follows:

"Legal resident" defined.

"(12) For the purpose of this Act a legal resident is any person who has had his domicile anywhere in the State of North Carolina for a period of at least twelve consecutive months after entering said State for the purpose of residence."

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

S. B. 107

CHAPTER 133

AN ACT AUTHORIZING VOLUNTARY ASSOCIATIONS OF INDIVIDUALS, SOCIETIES, AND UNIONS TO ACQUIRE LAND AND REGULATING THE CONVEYANCE OF THE SAME.

The General Assembly of North Carolina do enact:

Voluntary organizations authorized to acquire and hold real property in common or corporate names.

SECTION 1. Voluntary organizations and associations of individuals organized for charitable, fraternal, religious, or patriotic purposes, when organized for the purposes which are not prohibited by law, are hereby authorized and empowered to acquire real estate and to hold the same in their common or corporate names: *Provided,* that voluntary organizations and associations of individuals, within the meaning of this Act, shall not include associations, partnerships or copartnerships which are organized to engage in any business, trade, or profession.

Conveyance in fee simple, upon authorization by resolution.

SEC. 2. That where real estate has been or may be hereafter conveyed to such organizations or associations in their common or corporate name the said title shall vest in said organizations, and may be conveyed by said organization in its common name, when such conveyance is authorized by resolution of the body duly constituted and held, by a deed signed by its chairman or president, and its secretary or treasurer, or such officer as is the custodian of its common seal with its officials seal affixed, the said conveyance to be proven and probated in the same manner as provided by law for deeds by corporations, and conveyances thus made by such organizations, and associations shall convey good and fee simple title to said land.

Execution of instruments of conveyance.

Construction of Act.

SEC. 3. That nothing in this Act shall be deemed in any manner to change the law with reference to the holding and conveyance of land by the trustees of churches or other voluntary organizations where such land is conveyed to and held by such trustees.

Prior conveyances validated.

SEC. 4. All deeds heretofore executed in conformity with this Act are declared to be sufficient to pass title to real estate held by such organizations; *provided,* that this Act shall not affect pending litigation.

Pending litigation unaffected.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

S. B. 189 **CHAPTER 134**

AN ACT TO AMEND PARAGRAPH TWO, SECTION NINETEEN, CHAPTER ONE HUNDRED FORTY-SIX, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-SEVEN, AS AMENDED BY SECTION ONE, CHAPTER THIRTY-SEVEN, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-NINE WITH REFERENCE TO "DAILY DEPOSITS BY COLLECTING OR RECEIVING OFFICERS."

The General Assembly of North Carolina do enact:

Sec. 19, Ch. 146, Public Laws, 1927, County Fiscal Control Act, amended.

SECTION 1. That paragraph two, Section nineteen, Chapter one hundred forty-six, Public Laws of one thousand nine hundred twenty-seven, as amended by Section one, Chapter thirty-seven, Public Laws of one thousand nine hundred twenty-nine, with reference to "Daily deposits by collecting or receiving officers" be, and the same hereby is, amended to read as follows:

Selection of official depository for county funds.

"The Board of Commissioners is hereby authorized and empowered to select and designate annually, by recorded resolution, some bank or banks or trust company in this State as an official depository or depositories of the funds of the county,

Required security for deposits.

which funds shall be secured in accordance with Section thirty-two, Chapter sixty, Public Laws of one thousand nine hundred thirty-one, as amended."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

S. B. 192

CHAPTER 135

AN ACT TO AUTHORIZE THE DESTRUCTION OF RECORDS OF INSOLVENT BANKS WHICH HAVE BEEN FULLY LIQUIDATED.

The General Assembly of North Carolina do enact:

Destruction of records of liquidated insolvent banks by Clerk Superior Court.

SECTION 1. After the expiration of ten years from the date of filing in the office of the Clerk of the Superior Court of a final order approving the liquidation by the Banking Department of any insolvent bank and the delivery to the Clerk or into his custody of the records of such bank, the said records may be destroyed by the Clerk of the Superior Court holding said records by burning the same in the presence of the Register of Deeds and the Sheriff of said county, who shall join with the Clerk in the execution of a certificate as to the destruction of said records. The certificate shall be filed by the Clerk in the court records of the liquidation of the bank whose records are thus destroyed.

Certificate of destruction.

Destruction of records by Commissioner of Banks.

SEC. 2. After ten years from the filing by the Commissioner of Banks of a final report of liquidation of any insolvent bank, the said Commissioner, by and with the consent of the Advisory Commission to the Commissioner of Banks or its successor, may destroy by burning the records of any insolvent bank held in the Department of the Commissioner of Banks in connection with the liquidation of such bank: *Provided*, that in connection with any unpaid dividends the Commissioner of Banks shall preserve the deposit ledger or other evidence of indebtedness of the bank with reference to the unpaid dividend until the dividend shall have been paid.

Preservation of deposit ledgers in connection with unpaid dividends.

Construction of Act.

SEC. 3. Nothing in this Act shall be construed to authorize the destruction by the Clerk of the Superior Court of any county or by the Commissioner of Banks of any of the formal records of liquidation, nor shall the Commissioner of Banks have authority under this Act to destroy any of the records made in his office with reference to the liquidation of any insolvent bank.

Conflicting laws repealed.

SEC. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

S. B. 213 CHAPTER 136

AN ACT TO AMEND SECTION THREE THOUSAND THREE HUNDRED AND ONE OF THE CONSOLIDATED STATUTES RELATING TO FEDERAL SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina do enact:

C. S., 1919, Sec. 3301, validating execution of certain instruments, amended to apply to federal savings and loan associations.

SECTION 1. That Section three thousand three hundred and one of the Consolidated Statutes of one thousand nine hundred nineteen be, and the same is, hereby amended by adding at the end thereof, the following: "The provisions of this Section shall apply to federal savings and loan associations having their principal offices in this State."

Acknowledgments, etc. validated.

SEC. 2. Acknowledgments and proofs of execution, including private examinations of any married woman heretofore taken by an officer who is or was a stockholder in any federal savings and loan association, are hereby validated.

Pending litigation unaffected.

SEC. 2½. *Provided* that the provisions of this Act shall not affect pending litigation.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

H. B. 321 CHAPTER 137

AN ACT TO AMEND CHAPTER FOUR HUNDRED EIGHT OF THE LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, RELATING TO THE COOPERATION OF CITIES, TOWNS, INCORPORATED VILLAGES AND THE STATE WITH HOUSING AUTHORITIES AND THE UNITED STATES OF AMERICA.

The General Assembly of North Carolina do enact:

Ch. 408, Public Laws, 1935, amended.

SECTION 1. That Chapter four hundred eight, Public Laws of one thousand nine hundred thirty-five, be, and the same is hereby, amended by striking out Section three and inserting in lieu thereof the following:

Powers of State, its agencies and local units, in aiding housing projects.

"SEC. 3. Conveyance, Lease or Agreement in Aid of Housing Project. For the purpose of aiding and cooperating in the planning, construction and operation of housing projects lo-

cated within their respective territorial boundaries, the State, its subdivisions and agencies, and any county, city or municipality of the State may, upon such terms, with or without consideration as it may determine:

Enumeration of powers.

"(a) Dedicate, release, sell, convey, or lease any of its interest in any property, or grant easements, licenses or any other rights or privileges therein to a housing authority or the United States of America or any agency thereof;

"(b) Cause parks, playgrounds, recreational, community, educational, water, sewer or drainage facilities, or any other works, which it is otherwise empowered to undertake, to be furnished adjacent to or in connection with housing projects;

"(c) Furnish, dedicate, close, pave, install, grade, regrade, plan or replan streets, roads, roadways, alleys, sidewalks or other places, which it is otherwise empowered to undertake;

"(d) Plan or replan, zone or rezone; make exceptions from building regulations and ordinances; any city or town also may change its map;

"(e) Cause services to be furnished to the housing authority of the character which it is otherwise empowered to furnish;

"(f) Enter into agreements with respect to the exercise by it of its powers relating to the repair, closing or demolition of unsafe, insanitary or unfit dwellings;

"(g) Enter into agreements (which may extend over any period, notwithstanding any provision or rule of law to the contrary), with a housing authority respecting action to be taken pursuant to any of the powers granted by this Act. Any law or statute to the contrary notwithstanding, any sale, conveyance, lease or agreement provided for in this section may be made by the State, a city, county, municipality, subdivision or agency of the State without appraisal, public notice, advertisement or public bidding.

"(h) With respect to any housing project which a housing authority has acquired or taken over from the United States of America or any agency thereof and which the housing authority by resolution has found and declared to have been constructed in a manner that will promote the public interest and afford necessary safety, sanitation and other protection, no city or county shall require any changes to be made in the housing project or the manner of its construction or take any other action relating to such construction."

SEC. 2. That notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provision of this Act, or the application

Partial invalidity clause.

thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Construction of Act.

SEC. 3. That in so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

H. B. 579 CHAPTER 138

AN ACT RELATING TO THE FEES OF THE SHERIFF OF HERTFORD COUNTY FOR ARRESTS IN CRIMINAL CASES.

The General Assembly of North Carolina do enact:

Ch. 17, Public Laws, 1925, amended, as to arrest fees, Hertford County.

SECTION 1. That Section one (c) of Chapter seventeen, Public Laws of one thousand nine hundred twenty-five, be, and the same is hereby stricken out.

C. S. 3908, amended to increase arrest fees in criminal cases.

SEC. 2. That Section three thousand nine hundred and eight of the Consolidated Statutes, Volume one, one thousand nine hundred nineteen, be amended by striking out the words "one dollar" in line nine and inserting in lieu thereof the words "two dollars."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

H. B. 641 CHAPTER 139

AN ACT TO AMEND CHAPTER ONE HUNDRED EIGHTY OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED SEVEN, RELATING TO THE RECORDER'S COURT OF PASQUOTANK COUNTY.

The General Assembly of North Carolina do enact:

Sec. 3, Ch. 180, Public Laws, 1907, amended.

SECTION 1. That Section three of Chapter one hundred eighty

of the Public Laws of one thousand nine hundred seven, be, and the same is hereby, amended to read as follows:

"SEC. 3. Said court shall be open at all times for the trial of cases, and said trial justice shall, if there be any business to transact, hold sessions on Monday, Wednesday and Friday, either at the court house or the Agricultural Building of Elizabeth City, or any other building as designated by the Board of County Commissioners, which session shall begin at nine-thirty A. M., and continue until the business of the court is dispatched." Time and place for holding Recorder's Court, Pasquotank County.

SEC. 2. That Chapter one hundred eighty of the Public Laws of one thousand nine hundred seven, be, and the same is hereby, amended by adding a new section, to be designated as Section six and one half, as follows: Chapter further amended.

"SEC. 6½. In the trial of all offenses which are below the grade of felony, a jury may be demanded by either the State or the defendant, or the court may, upon its own motion, order a jury trial in any case where, in the judgment of the court, the ends of justice would be better met by submitting the case to a jury. The Clerk of the Board of County Commissioners is hereby required to furnish to the Clerk of said Recorder's Court a complete list of all taxpayers in the Township of Elizabeth City, said Clerk of said Recorder's Court to place names of said taxpayers of Elizabeth City Township on separate scrolls of white paper, in a box of two compartments, to be known as Jury Box, Recorder's Court, and return said jury box in his custody properly locked. When motion is made in any case for a jury trial, the trial justice or judge shall direct the clerk of said court to draw twelve (12) names on individual scrolls of paper from said jury box, and he shall copy names of the twelve (12) jurors drawn, and the trial justice or judge shall direct the proper writ to the Sheriff of Pasquotank County to have the said juror subpoenaed for jury service. The jury shall consist of six (6) members selected from said jury list of twelve (12) names. The names of jurors shall be drawn from a box in the presence of the prosecuting attorney and the defendant, or his attorney. All jurors accepted for jury service shall receive a fee of one dollar ($1.00), and those not accepted and discharged shall receive a fee of twenty-five cents. The party requesting a jury trial shall deposit a sum of seven dollars and fifty cents ($7.50) with the clerk of said court, which sum shall not be refunded in the event of the acquittal of the defendant or an appeal to the Superior Court. The State and the defendant shall be entitled to one peremptory challenge each." Right of trial by jury in misdemeanor cases. Preparation of jury box. Drawing of jurors. Selection of jury. Juror fees. Deposit required in event of demand for jury trial. Challenges.

SEC. 3. That Section fifteen of Chapter one hundred eighty of the Public Laws of one thousand nine hundred seven, be, and the same is hereby, amended to read as follows: Sec. 15, amended.

"SEC. 15. That the Chief of Police of the City of Elizabeth City shall, in addition to his duties as Chief of Police, perform the Chief of Police, Elizabeth City, to act as Clerk of Recorder's Court.

Duties.

duties of Clerk of said Recorder's Court, including the collection of all fines, costs, and/or forfeitures imposed in said court. He shall keep all records of said court, and shall, not later than the first day of each month, file a written report with the Auditor of Pasquotank County, showing the disbursement of all funds collected in his capacity of said clerk. The said clerk shall issue warrants, writs, papers for commitment, not including search warrants, and shall perform all the duties incident to his office as clerk of said court. There shall be taxed in the bill of costs in all criminal actions, in which the parties charged are convicted, the following fees:

Monthly report to County Auditor.

Issuance of warrants, etc.

Fees taxed in bill of cost.

Prosecuting attorney fees.

(a) The prosecuting attorney, two dollars and fifty cents ($2.50), when one offense is charged in the warrant; three dollars and seventy-five cents ($3.75), if two offenses are charged and there is a conviction on both; four dollars ($4.00) in cases charging larceny, fraud and/or false pretense. Said fees shall be paid to the County General Fund;

Trial justice fees.

(b) trial justice, one dollar and fifty cents ($1.50) for each defendant convicted, one half to be paid to the Elizabeth City Cost Fund, and one half to be paid to the County General Fund;

Arrest fees.

(c) arrest fees when the arrests are made by police officers of Elizabeth City, the Sheriff of Pasquotank County or his deputies, officers of the Pasquotank County Board of Alcoholic Control, or by State Patrolmen, three dollars ($3.00); where the arrest is by city officers, fifty cents of said fee shall be paid to the Elizabeth City Cost Fund, and two dollars and fifty cents ($2.50) to the Secretary-Treasurer of the Elizabeth City Police Commission; all other arrest fees shall be paid to the Sheriff Turnkey's Fund;

Clerical fees.

(d) a clerical fee of one dollar ($1.00) to be paid to the said Clerk of the Pasquotank County Recorder's Court as a full and complete compensation for performing the duties of said office; and should this total in excess of fifty dollars ($50.00) for the month, then such amount in excess of fifty dollars ($50.00) to be paid to Elizabeth City Cost Fund;

Turnkey fees.

(e) the turnkey fee of sixty cents to be paid to the Sheriff Turnkey's Fund;

(f) all fees shall be disbursed monthly."

Chapter further amended.

SEC. 4. That Chapter one hundred eighty of the Public Laws of one thousand nine hundred seven, be, and the same is hereby, amended by adding a new section, to be designated as Section fifteen and one half, as follows:

Seal of Recorder's Court of Pasquotank County.

"SEC. 15½. The Recorder's Court of Pasquotank County shall have a seal with the impression 'Recorder's Court of Pasquotank County,' which shall be used in attestation of all writs, warrants, or other processes, acts or judgments of said court whenever re-

quired, and in the same manner and in the same effect as the seal of other courts of record in the State of North Carolina."

SEC. 5. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 6. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

H. B. 754 **CHAPTER 140**

AN ACT TO AMEND SECTION TWO THOUSAND THREE HUNDRED FIFTEEN OF THE CONSOLIDATED STATUTES, VOLUME THREE, ONE THOUSAND NINE HUNDRED TWENTY-FOUR, RELATING TO THE DRAWING OF JURIES IN WAYNE COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section two thousand three hundred fifteen of the Consolidated Statutes, Volume three, one thousand nine hundred twenty-four, be amended by adding a proviso at the end thereof, to read as follows: C. S., Vol. 3, 1924, Sec. 2315, amended, as to drawing of jury panel, Wayne County.

"*Provided,* that in Wayne County the forty-two scrolls required by this section shall be drawn only at the January and July criminal terms of court; at all other terms, twenty-four scrolls shall be drawn from the jury box for each week."

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

H. B. 809 **CHAPTER 141**

AN ACT TO AMEND SENATE BILL FIFTY-NINE, ENACTED AND RATIFIED FEBRUARY FIFTEENTH, ONE THOUSAND NINE HUNDRED THIRTY-NINE, WHICH BILL AMENDED CHAPTER ONE OF THE PUBLIC LAWS OF THE EXTRA SESSION OF ONE THOUSAND NINE HUNDRED THIRTY-SIX, KNOWN AS THE "UNEMPLOYMENT COMPENSATION LAW."

The General Assembly of North Carolina do enact:

S. B. 59, Ch. 27, Public Laws, 1939, amended, to chang effective dates of certain sections.

SECTION 1. That Sections one, three, four, five, eleven, twelve, and fourteen of Senate Bill fifty-nine, enacted and ratified by the General Assembly February fifteenth, one thousand nine hundred thirty-nine, which bill amended Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law", be, and the same are hereby amended so that whenever the words "January first, one thousand nine hundred thirty-nine", appear in said Sections one, three, four, five, eleven, twelve, and fourteen of said Senate Bill fifty-nine, such shall be changed so as to read as follows: "February fifteenth, one thousand nine hundred thirty-nine."

Conflicting laws repealed.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 3. This Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 20th day of March, 1939.

S. B. 25 **CHAPTER 142**

AN ACT TO AMEND SECTION SIX THOUSAND FIFTY-FOUR, VOLUME THREE, ARTICLE SEVENTEEN OF THE CONSOLIDATED STATUTES PLACING SURRY COUNTY UNDER THE STATE-WIDE PRIMARY LAW.

The General Assembly of North Carolina do enact:

C. S., Vol. 3, Art. 17, Section 6054, amended.

Surry County placed under State-wide Primary Law.

SECTION 1. Section six thousand fifty-four, Volume three, Article seventeen of the Consolidated Statutes be and the same is hereby amended by striking out the word "Surry" in line eight of said section, it being the intent and purpose of this Act to place Surry County under the State-wide primary law.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

S. B. 111 **CHAPTER 143**

AN ACT TO AMEND CONSOLIDATED STATUTES SECTION SEVEN HUNDRED AND FIFTY-THREE (753) WITH RESPECT TO THE TIME OF SERVICE ON A STATE AGENCY.

The General Assembly of North Carolina do enact:

C. S. 753, amended to prescribe time allowed agencies of the State for filing answer or other pleading in special proceedings.

SECTION 1. That Consolidated Statutes Section seven hundred and fifty-three (753) as amended by House Bill thirty-six, ratified on the twenty-third day of February, one thousand nine hundred and thirty-nine be further amended by changing the period after the word "actions" at the end of the said section to a colon and add the following:

"*Provided, however,* where the defendant is an agency of the State the time for filing answer or other plea shall be not less than thirty (30) days after the date of service."

SEC. 2. This Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

S. B. 166 **CHAPTER 144**

AN ACT REGULATING CHARITABLE ORGANIZATIONS, INSTITUTIONS, OR ASSOCIATIONS SOLICITING PUBLIC AID AND INDIVIDUALS SOLICITING PUBLIC ALMS.

The General Assembly of North Carolina do enact:

Regulation of organizations, institutions, etc. soliciting public aid for charitable purposes.

SECTION 1. From and after the passing of this Act, all organizations, institutions or associations formed outside the State of North Carolina for charitable purposes, who through agents or representatives or by mail publicly solicit and receive public donations or sell memberships in this State, and all individuals, firms or organizations selling merchandise, periodicals, books for advertising space of any kind, upon the representation or under the pretense that the whole or any part of the profit derived from the sale or barter of such merchandise, periodicals, books or advertising space, shall be used for charitable purposes, shall be

Statement filed with State Board of Charities and Public Welfare.

required to file with the State Board of Charities and Public Welfare a statement setting forth the name and location of such organization, institution or association, the purposes for which said organization, institution or association exists, the names of its principal officers and soliciting agents, the purposes for which the money solicited is to be expended and the terms under which solicitors are employed. In the case of the selling of merchandise, periodicals, books for advertising space of any kind for charitable purposes, such statement shall set forth the full name of the individual, firm or organization conducting the same, the location at which the sale is to be conducted, the names of all organizations, institutions or associations for whose benefit the sale is conducted, the purposes for which the proceeds thereof are to be expended and the terms, including salaries and commissions, under which all employees are employed.

License required for soliciting alms, etc.

From and after the passing of this Act, it shall be unlawful for an individual to engage in the business of soliciting alms or begging charity for his or her own livelihood upon the streets or highways of this State or through door to door solicitation without first securing a license from the proper licensing agency hereinafter provided for. Any person desiring to engage in the business of begging or soliciting alms shall file with the proper licensing agency hereinafter provided for a written application for a license, stating in the application the name of the person desiring the license, his or her address for the past five years, the purpose for which he or she desires to solicit alms, the manner in which said funds shall be disbursed, and any other reasonable information which may be requested on the license form. The carrying of merchandise by the individual soliciting alms or begging charity shall not exempt the individual so begging from the provisions of this Act.

Application for license.

Issuance of license for blind persons, by N. C. State Commission for Blind.

If the individual soliciting alms is blind or visually handicapped, or if the organization, institution or association soliciting public aid in behalf of the blind or visually handicapped, the application for license shall be referred to the North Carolina State Commission for the Blind, which application shall be approved or disapproved, giving reasons therefor. If the said application is approved, the license shall be issued by the North Carolina State Commission for the Blind to said individual, organization, institution or association, its agents and representatives, without expense, authorizing said individual, organization, institution or association to publicly solicit alms or to publicly solicit and receive public donations or sell memberships in any county, city or township in the State.

Issuance by N. C. State Dept. of Vocational Rehabilitation, for crippled etc. persons.

If the individual soliciting alms is handicapped, or if the organization, institution or association is soliciting public aid in behalf of the crippled, the application for license shall be referred to the North Carolina State Department of Vocational Rehabili-

tation, which application shall be approved or disapproved, giving reasons therefor. If the said application is approved, the North Carolina State Department of Vocational Rehabilitation shall issue to said individual, organization, institution or association, its agents and representatives, a license, without expense, authorizing said individual, organization, institution or association to publicly solicit alms or to publicly solicit and receive public donations or sell memberships in any county, city or township in the State.

License for deaf persons, issued by Bureau of Labor for the Deaf.

If the individual publicly soliciting alms has impaired hearing, or if the organization, institution or association is soliciting public aid in behalf of the deaf or hard of hearing, the application for license shall be referred to the Bureau of Labor for the Deaf, which application shall be approved or disapproved, giving reasons therefor. If the said application is approved, the Bureau of Labor for the Deaf shall issue to said individual or to said organization, institution or association, its agents and representatives, a license, without expense, authorizing said individual or said organization, institution or association to publicly solicit alms or to publicly solicit and receive public donations or sell memberships in any county, city, or township in the State.

Other licenses issued by State Board of Charities and Public Welfare.

All other applicants desiring to solicit alms publicly, and all other organizations, institutions or associations desiring to solicit public aid for charitable purposes shall make application to the State Board of Charities and Public Welfare, and the application for license shall be approved or disapproved, with the reasons therefor. If said application is approved, the State Board of Charities and Public Welfare shall issue to the said individual or to the said organization, institution or association, its agents and representatives, a license, without expense, authorizing said individual or said organization, institution or association to publicly solicit alms or to publicly solicit and receive public donations, or sell memberships in any county, city or township in the State.

Valid for one year.

Such license shall be valid for one year from and after the date of its issuance, and may be renewed from time to time in the same manner as is herein provided for the original granting thereof.

Revocation of licenses.

Any license issued to an individual or to an organization, institution or association, under the provisions of this Act, may be revoked by the issuing agency for cause shown, and after reasonable notice to said individual or to said organization, institution or association and after due opportunity to be heard. Nothing in this Act, however, shall be construed to prohibit any local organization, institution or association from publicly soliciting funds or donations within the county in which such organization, institution or association is located.

Solicitors required to have on person, copy of license with photograph attached.

SEC. 2. It shall be unlawful for any agent or representative of any organization, institution or association formed for charitable purposes, which is licensed under the provisions of this Act,

to publicly solicit and receive donations in this State, unless such agent or representative is provided with a copy of the license of the organization, institution or association which he represents, or by whom he is employed. Attached to such copy of said license, there shall be a photograph of the individual soliciting made within the past twelve months, which photograph must be attested and countersigned by the president, secretary or treasurer of said organization, institution or association by which such agent or representative is employed, or which he represents, certifying that such agent or representative is authorized by such organization, institution or association, to publicly solicit and receive donations for the same.

Exemptions.

SEC. 2 A. That the provisions of this Act shall not apply to any appeal or solicitation made in a public religious or charitable or educational service or in a meeting of any lodge or church or Sunday school or charitable organization or through the public press, American Legion and other patriotic organizations.

Violations made misdemeanor.

SEC. 3. Any person who shall violate any provisions of this Act or who shall solicit alms without first applying for and obtaining a license as herein provided, or who shall solicit funds under any such license and thereafter divert the same to purposes other than that for which they were contributed, shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not more than five hundred dollars, or imprisonment not to exceed six months.

Partial invalidity clause.

SEC. 4. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. No caption of any section or set of sections shall in any way affect the interpretation of this Act or any part thereof.

Conflicting laws repealed.

SEC. 5. That Sections four thousand four hundred fifty-nine, four thousand four hundred sixty and four thousand four hundred sixty-one of the Consolidated Statutes, Volume one (one thousand nine hundred nineteen), be, and the same are, hereby repealed only in so far as they are in direct conflict with the provisions of this Act; and, that all other laws and clauses of laws in conflict with this Act be, and the same are, hereby repealed.

Application of Act.

SEC. 5 A. That nothing in this Act shall apply to any church, religious denomination, civic club, or lodge, which is either located in, resident in, or has communicants or members resident in this State, or their officers, employees or representatives, or to institutions or agencies fostered or promoted by the same.

SEC. 6. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

S. B. 194 **CHAPTER 145**

AN ACT TO AUTHORIZE THE TREASURER OF THE STATE OF NORTH CAROLINA TO REIMBURSE DOCTOR HUBERT A. ROYSTER, OF RALEIGH, FOR MONEY PAID BY HIM ON ACCOUNT OF A JUDGMENT AGAINST HIM IN A CASE FOR SERVICES RENDERED THE STATE OF NORTH CAROLINA.

Preamble: Medical services rendered by Dr. Hubert A. Royster to Gladys B. Duke at request of State Dept. of Public Welfare.

WHEREAS, at the request of and upon an order of the State Department of Public Welfare, upon proper blanks filled out and duly signed in the office of Miss Lilly E. Mitchell, Director of Childrens' Division, and duly signed by Mr. R. Eugene Brown, Director of Institutions, issued on or about the twelfth day of April, one thousand nine hundred thirty-two, Dr. Hubert A. Royster performed an asexualization or sterilization operation upon one, Gladys B. Duke, an infant, of Durham, North Carolina, on April thirteenth, one thousand nine hundred thirty-two, as an agent of such State Department of Public Welfare, without receiving any compensation whatsoever for the performance of such operation, as was the custom; and

No compensation received for services.

Authorization proceedings not in conformity with statute.

WHEREAS, through no fault of Dr. Royster, in the proceedings instituted by the State Department of Public Welfare, "In Re: Gladys B. Duke," under the Public Laws of one thousand nine hundred twenty-nine, Chapter thirty-four, the hearing held and all orders therein drawn and entered did not conform to the requirements of Chapter thirty-four, Public Laws one thousand nine hundred twenty-nine, thereinafter declared unconstitutional; and

Operation performed under authority of Ch. 34, Public Laws, 1929.

Act declared unconstitutional by Supreme Court.

WHEREAS, said operation was performed under Public Laws of one thousand nine hundred twenty-nine, Chapter thirty-four, formerly Consolidated Statutes two thousand three hundred four (2304) (h)—two thousand three hundred four (2304) (l); and whereas, said Chapter thirty-four, Public Laws one thousand nine hundred twenty-nine was declared unconstitutional by the Supreme Court of North Carolina in the case of Brewer v. Valk, Volume two hundred four, North Carolina, one hundred eighty-six; and thereinafter Sections two thousand three hundred four (2304) (h)—two thousand three hundred four (2304) (l) of Chapter thirty-four, Public Laws one thousand nine hundred twenty-nine were repealed by Chapter two hundred twenty-four of Public Laws one thousand nine hundred thirty-three, and Consolidated Statutes two thousand three hundred four (2304) (m)

—two thousand three hundred four (2304) (ff) were substituted in lieu thereof; and

Institution of suit by Gladys B. Duke against Dr. Hubert A. Royster and Joseph B. Johnston.

WHEREAS, the said Gladys B. Duke, after reaching her majority, did institute and file on August twenty-sixth, one thousand nine hundred thirty-seven, in the Superior Court of Durham County, North Carolina, an action against Dr. Hubert A. Royster for wrongful asexualization under Public Laws one thousand nine hundred twenty-nine, Chapter thirty-four, said action being entitled, "Gladys B. Duke vs. Hubert A. Royster and Joseph B. Johnston;" and

Compromise settlement of action.

WHEREAS, upon advice of counsel, Dr. Hubert A. Royster was able to effect a settlement and compromise of said pending action at a cost to himself of a sum of seven hundred fifty ($750.00) dollars; *Now, therefore,*

The General Assembly of North Carolina do enact:

Reimbursement to Dr. Hubert A. Royster of sum expended in compromise settlement of action authorized.

SECTION 1. That the Treasurer of the State of North Carolina is hereby authorized and directed to pay to Dr. Hubert A. Royster, of Raleigh, North Carolina, the sum of seven hundred fifty ($750.00) dollars, in order to reimburse him for the sum of seven hundred fifty ($750.00) dollars paid by him to compromise and settle the action brought against him by Gladys B. Duke for having asexualized and sterilized the said Gladys B. Duke, under an Act of the Legislature of the State of North Carolina, Chapter thirty-four of Public Laws of one thousand nine hundred twenty-nine, thereinafter declared unconstitutional and void by the Supreme Court of the State of North Carolina in the case of Brewer v. Valk, two hundred four, North Carolina, one hundred eighty-six.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

S. B. 206 CHAPTER 146

AN ACT TO AMEND CHAPTER SIXTY, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE, AS AMENDED, RELATIVE TO THE INVESTMENT OF SINKING FUNDS OF UNITS UNDER THE LOCAL GOVERNMENT COMMISSION IN THE SHARES OF BUILDING AND LOAN ASSOCIATIONS AND FEDERAL SAVINGS AND LOAN ASSOCIATIONS.

Ch. 60, Public Laws, 1931, amended, as to investments of sinking funds of local units.

The General Assembly of North Carolina do enact:

SECTION 1. That Section twenty-nine of Chapter sixty, Public Laws of one thousand nine hundred thirty-one, be, and the

same is hereby, amended by adding after the word "note," at the beginning of line eight, and before the word "or" in said line eight, the following: "or in shares of any building and loan association organized and licensed under the laws of this State, or in shares of any Federal savings and loan association organized under the laws of the United States, with its principal office in this State; *provided*, that no such funds may be so invested in a building and loan association unless and until authorized by the Insurance Commissioner, or in shares of a Federal savings and loan association unless and until authorized by an officer of the Federal Home Loan Bank at Winston-Salem."

Approval of investments.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

S. B. 237 CHAPTER 147

AN ACT TO AMEND THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED NINETEEN BY STRIKING OUT SECTION THREE THOUSAND FIVE HUNDRED THIRTY-SEVEN AND INSERTING IN LIEU THEREOF A NEW SECTION RELATIVE TO THE SEPARATE ACCOMMODATION OF WHITE AND COLORED PASSENGERS UPON STREET CARS AND OTHER PASSENGER VEHICLES.

The General Assembly of North Carolina do enact:

SECTION 1. Amend Volume one of the North Carolina Consolidated Statutes of one thousand nine hundred nineteen by striking out all of Section three thousand five hundred thirty-seven, and by inserting in lieu thereof a new section to read as follows:

C. S., 1919, Vol. 1, Sec. 3537, amended.

"3537. Passengers to Take Certain Seats: Violation of Requirement Misdemeanor.—Any white person entering a street car or other passenger vehicle or motor bus for the purpose of becoming a passenger therein shall, in order to carry out the purposes of the preceding section, occupy the first vacant seat or unoccupied space nearest the front thereof, and any colored person entering a street car or other passenger vehicle or motor bus for a like purpose shall occupy the first vacant seat or unoccupied space nearest the rear end thereof, *provided, however*, that no contiguous seat on the same bench shall be occupied by white and colored passengers at the same time, unless and until all the other seats in the car have been occupied. Upon request of the person in charge of the street car or other passenger vehicle or motor bus,

Regulations for accommodation of white and colored passengers upon street cars and other passenger vehicles.

and when necessary in order to carry out the purpose of providing separate seats for white and colored passengers, it shall be the duty of any white person to move to any unoccupied seat toward or in the front of the car, vehicle or bus, and the duty of any colored person to move to any unoccupied seat toward or in the rear thereof, and the failure of any such person to so move shall constitute prima facie evidence of an intent to violate this section. Any person violating the provisions of this section shall be guilty of a misdemeanor and, upon conviction, shall be fined not more than fifty dollars or imprisoned not exceeding thirty days. Any such person may also be ejected from the car, vehicle or bus by the person charged with the operation thereof. Each person now or hereafter charged with the operation of any such street car, passenger vehicle or motor bus is hereby invested with police powers and authority to carry out the provisions of this section."

Violation of regulations made misdemeanor.

Operators of vehicles vested with police powers.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

S. B. 283 CHAPTER 148

AN ACT AMENDING CHAPTER THREE HUNDRED THIRTY-ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-NINE, THE SAME BEING AN ACT AMENDING CHAPTER FIFTY-SIX OF THE CONSOLIDATED STATUTES, RELATING TO SPECIAL ASSESSMENTS, AND EXTENDING THE STATUTE OF LIMITATIONS FROM TEN YEARS TO FIFTEEN YEARS FROM THE DEFAULT IN THE PAYMENT OF ANY INSTALLMENTS OF UNPAID ASSESSMENTS.

The General Assembly of North Carolina do enact:

Ch. 331, Public Laws, 1929, amended to extend statute of limitations on special assessments, Town of Clinton, Sampson County.

SECTION 1. That Section one of Chapter three hundred and thirty-one of Public Laws of one thousand nine hundred twenty-nine, the same being an Act amending Chapter fifty-six of Consolidated Statutes, one thousand nine hundred nineteen, relating to special assessments, be and the same is hereby amended by striking out the words "ten years" in lines five, eleven, and twelve of paragraph "b" of said section and inserting in lieu thereof the words "fifteen years."

SEC. 2. This Act shall apply to the Town of Clinton, Sampson County, only.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

H. B. 262 **CHAPTER 149**

AN ACT TO AMEND SECTION ONE THOUSAND SEVEN HUNDRED EIGHTY OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand seven hundred eighty of the Consolidated Statutes of North Carolina be and the same is hereby amended to read as follows: C. S. 1780, amended.

"All copies of bonds, contracts, notes, mortgages, or other papers relating to or connected with any loan, account, settlement of any account or any part thereof, or other transaction, between the United States or any state thereof or any corporation all of whose stock is beneficially owned by the United States or any state thereof, either directly or indirectly, and any person, natural or artificial; or extracts therefrom when complete on any one subject, or copies from the books or papers on file, or records of any public office of any corporation all of whose stock is beneficially owned by the United States or by any state thereof, directly or indirectly, shall be received in evidence and entitled to full faith and credit in any of the courts of this State when certified to by the chief officer or agent in charge of such public office or of such office of such corporation, or by the secretary or an assistant secretary of such corporation, to be true copies, and authenticated under the seal of the office, department, or corporation concerned. Any such certificate shall be prima facie evidence of the genuineness of such certificate and seal, the truth of the statements made in such certificate, and the official character of the person by which it purports to have been executed." Authentication and receipt in evidence of copies of certain public records.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

H. B. 318 **CHAPTER 150**

AN ACT TO AMEND CHAPTER FOUR HUNDRED FIFTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, KNOWN AS THE HOUSING AUTHORITIES LAW, RELATING TO THE CREATION OF HOUSING AUTHORITIES TO ENGAGE IN SLUM CLEARANCE OR PROJECTS TO PROVIDE DWELLING ACCOMMODATIONS FOR PERSONS OF LOW INCOME AND TO DEFINE THEIR POWERS.

The General Assembly of North Carolina do enact:

Sec. 9, Ch. 456, Public Laws, 1935, Housing Authorities Law, amended.

SECTION 1. That Section nine of Chapter four hundred fifty-six, Public Laws of one thousand nine hundred thirty-five, be and the same is hereby amended by adding at the end of said section the following:

Power of authority to require compliance with minimum-wage and maximum-hour stipulations, etc.

"Notwithstanding anything to the contrary contained in this Act or in any other provision of law an authority may include in any contract let in connection with a project, stipulations requiring that the contractor and any subcontractors comply with requirements as to minimum wages and maximum hours of labor, and comply with any conditions which the Federal Government may have attached to its financial aid of the project."

Sec. 14, amended.

SEC. 2. That Chapter four hundred fifty-six of said Public Laws be and the same is hereby amended by striking out Section fourteen and inserting in lieu thereof the following:

Issuance of bonds for corporate purposes authorized.

Refunding bonds.

Types of bonds.

"Sec. 14. Types of Bonds. An authority shall have power to issue bonds from time to time in its discretion for any of its corporate purposes. An authority shall also have power to issue or exchange refunding bonds for the purpose of paying, retiring, extending or renewing bonds previously issued by it. An authority may issue such types of bonds as it may determine, including (without limiting the generality of the foregoing) bonds on which the principal and interest are payable from income and revenues of the authority and from grants or contributions from the Federal Government or other source. Such income and revenues securing the bonds may be: (a) exclusively the income and revenues of the housing project financed in whole or in part with the proceeds of such bonds; (b) exclusively the income and revenues of certain designated housing projects, whether or not they are financed in whole or in part with the proceeds of such bonds; or (c) the income and revenues of the authority generally. Any such bonds may be additionally secured by a pledge of any income or revenues of the authority, or a mortgage of any housing project, projects or other property of the authority.

"Neither the commissioners of an authority nor any person executing the bonds shall be liable personally on the bonds by reason of the issuance thereof. The bonds and other obligations of an authority (and such bonds and obligations shall so state in their face) shall not be a debt of any city or municipality and neither the State nor any such city or municipality shall be liable thereon, nor in any event shall such bonds or obligations be payable out of any funds or properties other than those of said authority. The bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation of the laws of the State. Bonds may be issued under this Act notwithstanding any debt or other limitation prescribed in any statute.

No personal liability on bonds.

Non-liability of State and municipalities.

Debt limitation inapplicable.

"This Act without reference to other Statutes of the State shall constitute full and complete authority for the authorization, issuance, delivery and sale of bonds hereunder and such authorization, issuance, delivery and sale shall not be subject to any conditions, restrictions or limitations imposed by any other law whether general, special or local."

Act constitutes authority for issuance, sale, etc. of bonds.

SEC. 3. That Chapter four hundred fifty-six of the said Public Laws be and the same is hereby amended by adding at the end of said chapter the following section:

Chapter further amended.

"Sec. 32. Rentals and Tenant Selection. It is hereby declared to be the policy of this State that each housing authority shall manage and operate its housing projects in an efficient manner so as to enable it to fix the rentals for dwelling accommodations at the lowest possible rates consistent with its providing decent, safe and sanitary dwelling accommodations, and that no housing authority shall construct or operate any such project for profit, or as a source of revenue to the city. To this end an authority shall fix the rentals for dwellings in its projects at no higher rates than it shall find to be necessary in order to produce revenues which (together with all other available monies, revenues, income and receipts of the authority from whatever sources derived) will be sufficient (a) to pay, as the same become due, the principal and interest on the bonds of the authority; (b) to meet the cost of, and to provide for, maintaining and operating the projects (including the cost of any insurance) and the administrative expenses of the authority; and (c) to create (during not less than the six years immediately succeeding its issuance of any bonds) a reserve sufficient to meet the largest principal and interest payment which will be due on such bonds in any one year thereafter and to maintain such reserve. In the operation or management of housing projects an authority shall at all times observe the following duties with respect to rentals and tenant selection: (a) it may rent or lease the dwelling accommodations

Management and operation of projects.

Limitation on rentals charged.

Regulations as to selection of tenants.

Selection of tenants.

therein only to persons who lack the amount of income which is necessary (as determined by the housing authority undertaking the housing project) to enable them, without financial assistance, to live in decent, safe and sanitary dwellings, without overcrowding; (b) it may rent or lease the dwelling accommodations only at rentals within the financial reach of such persons; (c) it may rent or lease to a tenant dwelling accommodations consisting of the number of rooms (but no greater number) which it deems necessary to provide safe and sanitary accommodations to the proposed occupants thereof, without overcrowding; and (d) it shall not accept any person as a tenant in any housing project if the person or persons who would occupy the dwelling accommodations have an annual net income in excess of five times the annual rental of the quarters to be furnished such person or persons, except that in the case of families with three or more minor dependents, such ratio shall not exceed six to one; in computing the rental for this purpose of selecting tenants, there shall be included in the rental the average annual cost (as determined by the authority) to occupants of heat, water, electricity, gas, cooking range and other necessary services or facilities, whether or not the charge for such services and facilities is in fact included in the rental.

Tenant restrictions inapplicable in event receivership.

"Nothing contained in this section shall be construed as limiting the power of an authority to vest in an obligee the right, in the event of a default by the authority, to take possession of a housing project or cause the appointment of a receiver thereof, free from all the restrictions imposed by this section."

Partial invalidity clause.

SEC. 4. Severability. That notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Construction of Act.

SEC. 5. Act Controlling. That in so far as the provisions of this Act are inconsistent with the provisions of any other law, the provisions of this Act shall be controlling.

SEC. 6. Time of Taking Effect. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

H. B. 656 **CHAPTER 151**

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED EIGHTY-ONE OF THE CONSOLIDATED STATUTES RELATING TO THE PAYMENT FOR DAMAGE CAUSED BY DOGS TO SHEEP AND TURKEYS OR OTHER PROPERTY IN JONES COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand six hundred eighty-one of the Consolidated Statutes be, and the same is hereby amended by adding at the end of the said section the following: "*Provided,* that Jones County shall not be liable, or required to pay damages, for injury to person or for sheep and turkeys or any other property destroyed, or injured by dogs in said County." C. S. 1681, amended, as to payment for damages by dogs in Jones County.

SEC. 2. This Act, however, shall not apply to pending claims for which Jones County may be liable under the law as it heretofore existed. Pending claims unaffected.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

S. B. 324 **CHAPTER 152**

AN ACT TO AMEND SECTION FIVE THOUSAND SIX HUNDRED THIRTY-SEVEN OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA, RELATIVE TO PROCEEDS FROM THE SALE OF TIMBER IN THE NATIONAL FOREST IN BUNCOMBE COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section five thousand six hundred and thirty-seven of the Consolidated Statutes of North Carolina, as amended, be and the same is hereby amended by adding at the end thereof the following language: "*Provided, however,* that in Buncombe County said funds shall be entirely for the use and benefit of the school district or districts in which said National forest lands shall be located." C. S. 5637, amended. Proceeds from sale of timber in National Forest, Buncombe County, used for benefit of school district.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1939.

H. B. 659 CHAPTER 153

AN ACT TO RELIEVE PERQUIMANS COUNTY FROM LIABILITY FOR PROPERTY DAMAGES OR PERSONAL INJURIES CAUSED BY DOGS UNDER SECTION ONE THOUSAND SIX HUNDRED EIGHTY-ONE OF THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED AND NINETEEN.

The General Assembly of North Carolina do enact:

C. S., 1919, Sec. 1681, amended as to payment for damages by dogs in Perquimans County.

SECTION 1. That Section one thousand six hundred eighty-one of the Consolidated Statutes of one thousand nine hundred nineteen with amendments thereto be, and the same is hereby amended by adding to the end thereof the following: "And *provided also* that all that portion of this section after the word 'collected' in line three thereof shall not apply to Perquimans County."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act be, and the same are hereby, repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification, but shall not be in effect as to those injuries and damages inflicted or sustained before its ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1939.

H. B. 709 CHAPTER 154

AN ACT TO AMEND SECTION FIVE THOUSAND AND NINETY OF THE CONSOLIDATED STATUTES, VOLUME TWO, ONE THOUSAND NINE HUNDRED NINETEEN, RELATING TO JUNK DEALERS IN STANLY COUNTY.

The General Assembly of North Carolina do enact:

C. S., 1919, Vol. 2, Sec. 5090, amended.

SECTION 1. That Section five thousand and ninety of the Consolidated Statutes, Volume two, one thousand nine hundred nineteen, be amended by adding a proviso at the end thereof to

read as follows: "*Provided*, that in Stanly County every person, firm or corporation engaged in the business of buying and/or selling or dealing in what is commonly known as junk, including scrap metals, glass, waste paper, waste burlap, waste cloth, cordage, or any rubber, leather, or rubber belts or belting of every nature, kind, or description, shall first apply for and obtain from the Clerk of the Superior Court of Stanly County for a permit to engage in such business; and, for the purpose of this Act, the Clerk of the Superior Court of Stanly County is authorized and directed to keep a permanent record of persons, firms or corporations to whom such permits are issued, which said record shall be open to public inspection at all times during which the said office is open for business, and the Clerk of the Superior Court shall charge a fee of one dollar ($1.00) for each permit so issued.

Junk dealers, Stanley County, required to secure business permits from Clerk of Superior Court.

Record of permits issued.

Fee for permit.

SEC. 2. Every person, firm or corporation buying or receiving junk, as herein defined, in Stanly County, shall make and keep a record of each purchase of such junk, giving the name and address of the seller, a description of the junk and where the same was obtained, and shall preserve such record for a period of two years from the date of such purchase and the same shall be open to inspection by any peace officer of this State, or any of the political subdivisions thereof, during such period.

Maintenance of records by junk dealers.

Contents.

Records open to inspection by peace officers.

SEC. 3. Any person, firm or corporation buying or receiving any such junk, as herein defined, in Stanly County from any person under twenty-one years of age, unless accompanied by a statement or certificate showing where such junk was obtained, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.

Violations made misdemeanor.

SEC. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1939.

H. B. 749 CHAPTER 155

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED EIGHTY-ONE OF THE CONSOLIDATED STATUTES RELATING TO THE PAYMENT FOR DAMAGE CAUSED BY DOGS TO SHEEP AND TURKEYS OR OTHER PROPERTY IN DARE COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1681, amended as to payment for damages by dogs in Dare County.

SECTION 1. That Section one thousand six hundred eighty-one of the Consolidated Statutes be, and the same is hereby amended by adding at the end of said section the following: "*Provided*, that Dare County shall not be liable, or required to pay damages, for injury to person or to sheep and turkeys or any other property destroyed, or injured by dogs in said county."

Pending claims unaffected.

SEC. 2. This Act, however, shall not apply to pending claims for which Dare County may be liable under the law as it heretofore existed.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 23rd day of March, 1939.

S. B. 256 CHAPTER 156

AN ACT TO AMEND CHAPTER FOUR HUNDRED AND THIRTEEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, RELATING TO THE COURTS OF ROCKINGHAM COUNTY.

The General Assembly of North Carolina do enact:

Ch. 413, Public Laws, 1937, amended.

SECTION 1. That Section five of Chapter four hundred and thirteen of the Public Laws of one thousand nine hundred and thirty-seven, be and the same is hereby amended by inserting in the first paragraph under the subsection headed "Rockingham" immediately preceding the word "Sixth" in line one of said paragraph the words: "First Monday after the first Monday in March to continue for one week" and by inserting between the word "week" and the word "for" in the last line thereof the words "each of the above terms to be."

Terms of Criminal Court, Rockingham County.

March civil term reduced to one week.

SEC. 2. That Section five of Chapter four hundred and thirteen, Public Laws one thousand nine hundred and thirty-seven,

be and the same is hereby further amended by striking out the word "two" in the first line of the second paragraph of the subsection headed "Rockingham" and inserting in lieu thereof the word "one" and by inserting in the last line of the paragraph between the word "weeks" and the word "for" the words "each of the above terms to be for."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after April first, one thousand nine hundred and thirty-nine.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

S. B. 277 **CHAPTER 157**

AN ACT AUTHORIZING THE DEPARTMENT OF CONSERVATION AND DEVELOPMENT TO NEGOTIATE FOR, PURCHASE AND OPERATE THE MARMON FISH HATCHERY IN AVERY COUNTY.

The General Assembly of North Carolina do enact:

Dept. of Conservation and Development authorized to purchase Marmon Hatchery, Avery County.

SECTION 1. The Department of Conservation and Development of the State of North Carolina is hereby authorized and empowered to negotiate for and purchase the lands and hatchery known as the Marmon Hatchery in Linville Township, Avery County, North Carolina, if and when the said department has the funds available to make such purchase.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

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

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 13

CHAPTER 158

AN ACT TO RAISE REVENUE.

Preamble: Policy of General Assembly as to enactment of Revenue Act.

WHEREAS, it has been the policy of the General Assembly to enact the entire Revenue Act, at each regular session, including numerous sections which are not revised or amended in any way; and

Concentration on sections to be revised, amended, etc.

WHEREAS, a considerable saving of time and expense, particularly printing expense, can be effected by concentrating on those sections which the members of the Assembly may desire to revise, amend, repeal or insert; and

Enactment of Revenue Act as a continuing Act.

WHEREAS, it is hereby declared that this Revenue Act shall be enacted as a continuing Act, subject to revision, amendment, repeal, reenactment and enlargement by subsequent sessions of the Assembly: *Now, therefore*

The General Assembly of North Carolina do enact:

TITLE AND PURPOSE OF ACT.

Title of Act.

SECTION A. *Title of Act.*

The title of this Act shall be "The Revenue Act of one thousand nine hundred and thirty-nine."

Purpose of Act.

SEC. B. *Purpose of Act.*

The purpose of this Act shall be to raise and provide revenue for the necessary uses and purposes of the government and State of North Carolina during the next biennium and each biennium thereafter.

ARTICLE I

Schedule A.

SCHEDULE A

Inheritance tax.

INHERITANCE TAX

SECTION 1. *General provisions.*

Imposition of tax.

A tax shall be and is hereby imposed upon the transfer of any property, real or personal, or of any interest therein or income therefrom, in trust or otherwise, to persons or corporations, in the following cases:

Resident testators or persons dying intestate.

First. When the transfer is by will or by the intestate laws of this State from any person dying, seized or possessed of the property while a resident of the State; or when the transfer is by settlement, contract, or agreement, or by any court order or otherwise, to any person or persons, by reason of claim or claims arising by virtue of intestate laws, in controversies or contests as to the probate or construction of any will or wills,

Claims arising under intestate laws.

or any trust, or other instrument, executed or created by any person dying seized of the property while a resident of this State.

Property within State.

Second. When the transfer is by will or intestate laws of this or any other State or by settlements in controversies over wills, as set forth in the preceding paragraph, of real property or of goods, wares, and merchandise within this State, or of any property, real, personal, or mixed, tangible or intangible, over which the State of North Carolina has a taxing jurisdiction, including State and municipal bonds, and the decedent was a resident of the State at the time of death; when the transfer is of real property or intangible personal property within the State, or intangible personal property that has acquired a situs in this State, and the decedent was a non-resident of the State at the time of death.

Property within State owned by non-residents.

Transfers made in contemplation of death.

Third. When the transfer of property made by a resident, or non-resident, is of real property within this State, or of goods, wares and merchandise within this State, or of any other property, real, personal, or mixed, tangible or intangible, over which the State of North Carolina has taxing jurisdiction, including State and municipal bonds, by deed, grant, bargain, sale, or gift made in contemplation of the death of the grantor, vendor, or donor, or intended to take effect in possession or enjoyment at or after such death, including a transfer under which the transferor has retained for his life or any period not ending before his death (a) the possession or enjoyment of, or the income from, the property or (b) the right to designate the persons who shall possess or enjoy the property or the income therefrom. Every transfer by deed, grant, bargain, sale, or gift, made within three years prior to the death of the grantor, vendor, or donor, exceeding three per cent (3%) of his or her estate, or in the nature of a final disposition or distribution thereof, and without an adequate valuable consideration, shall, in the absence of proof to the contrary, be deemed to have been made in contemplation of death within the meaning of this section.

Conditions of transfer supporting presumption.

Contingent estates or powers of appointment.

Fourth. When any person or corporation comes into possession or enjoyment, by a transfer from a resident, or from a non-resident decedent when such non-resident decedent's property consists of real property within this State or tangible personal property within the State, or intangible personal property that has acquired a situs in this State, of an estate in expectancy of any kind or character which is contingent or defeasible, transferred by any instrument taking effect after the passage of this Act, or of any property transferred pursuant to a power of appointment contained in any instrument.

Property passing by exercise of power.

Fifth. Whenever any person or corporation shall exercise a power or appointment derived from any disposition of property made either before or after the passage of this Act, such appointment when made shall be deemed a transfer taxable under the provisions of this Act, in the same manner as though the property to which such appointment relates belonged absolutely to the donee of such power, and had been bequeathed or devised by such donee by will, and the rate shall be determined by the relationship between the beneficiary under the power and the donor; and whenever any person or corporation having such power of appointment so derived shall, for any reason whatever, omit or fail to exercise the same, in whole or in part, or where for any reason the said power has not been exercised, a transfer taxable under the provisions of this Act shall be deemed to take place, to the extent of such omission or failure, in the same manner as though the persons or corporations thereby becoming entitled to the possession or enjoyment of the property to which such power related had succeeded thereto by will of the donee of the power failing to exercise the same, taking effect at the time of such omission or failure.

Determination of rate.

Transfer deemed to take place upon failure to exercise power.

Particuiar estates and remainders.

Sixth. Whenever any real or personal property, or both, of whatever kind or nature, tangible or intangible, is disposed of by will or by deed to any person or persons for life, or the life of the survivor, or for a term of years, or to any corporation for a term of years, with the power of appointment in such person or persons, or in such corporation, or reserving to the grantor or devisor the power of revocation, the tax, upon the death of the person making such will or deed, shall, on the whole amount of property so disposed of, be due and payable as in other cases, and the said tax shall be computed according to the relationship of the first donee or devisee to the devisor.

Tax payable upon death of donor.

Computation of

Estates by the entirety.

Seventh. Where real property is held by husband and wife as tenants by the entirety, the surviving tenant shall be taxable on one-half of the value of such property.

Property exempt.

SEC. 2. *Property exempt.*

The following property shall be exempt from taxation under this article:

Property for public use.

(a) Property passing to or for the use of the State of North Carolina, or to or for the use of municipal corporations within the State or other political sub-divisions thereof, for exclusively public purposes.

Property for religious, charitable or educational purposes.

(b) Property passing to religious, charitable, or educational corporations, or to churches, hospitals, orphan asylums, public libraries, religious, benevolent, or charitable organizations, or

passing to any trustee or trustees for religious, benevolent, or charitable purposes, where such religious, charitable, or educational institutions, corporations, churches, trusts, etc., are located within the State and not conducted for profit.

Non-resident institutions of like character.

(c) Property passing to religious, educational, or charitable corporations, foundations or trusts, not conducted for profit, incorporated or created or administered under the laws of any other state: If such other state levies no inheritance or estate taxes on property similarly passing from residents of such state to religious, educational or charitable corporations, foundations or trusts incorporated or created or administered under the laws of this State; or if such corporation, foundation or trust is one receiving and disbursing funds donated in this State for religious, educational or charitable purposes.

Life insurance policies payable to designated beneficiaries.

(d) The amount of twenty thousand dollars ($20,000.00), only, of the total proceeds of life insurance policies, when such policy or policies are payable to a beneficiary or beneficiaries named in such policy or policies, and such beneficiary or beneficiaries are any such person or persons as are designated in Section three (a) of this article: *Provided*, that no more than twenty thousand dollars ($20,000.00) of any such policy or policies shall be exempt from taxation, whether in favor of one beneficiary or more, and the exemption thus provided shall be prorated between the beneficiaries in proportion to the amounts received under the policies, unless otherwise provided by the decedent; and also proceeds of all life insurance policies payable to beneficiaries named in subsections (a), (b), and (c) of this section. And also proceeds of all policies of insurance and the proceeds of all Adjusted Service Certificates paid by the United States Government to the beneficiary or beneficiaries or heirs-at-law of any deceased soldier of the World War under the present laws of Congress or any amendment that may be hereafter made thereto.

Limitations on such exemptions.

Government insurance and proceeds of Adjusted Service Certificates.

SEC. 3. *Rate of tax—Class A.*

Rate of tax—Class A.

Lineal issue or ancestor, husband or wife, stepchildren or adopted children.

(a) Where the person or persons entitled to any beneficial interest in such property shall be the lineal issue, or lineal ancestor, or husband or wife of the person who died possessed of such property aforesaid, or stepchild of the person who died possessed of such property aforesaid, or child adopted by the decedent in conformity with the laws of this State or of any of the United States, or of any foreign kingdom or nation, at the following rates of tax (for each one hundred dollars ($100.00) or fraction thereof) of the value of such interest:

Rate schedule.

First $ 10,000 above exemption	1 per cent	
Over $ 10,000 and to $ 25,000	2 per cent	
Over $ 25,000 and to $ 50,000	3 per cent	

Over	$ 50,000	and to	$ 100,000	4	per cent
Over	$ 100,000	and to	$ 200,000	5	per cent
Over	$ 200,000	and to	$ 500,000	6	per cent
Over	$ 500,000	and to	$1,000,000	7	per cent
Over	$1,000,000	and to	$1,500,000	8	per cent
Over	$1,500,000	and to	$2,000,000	9	per cent
Over	$2,000,000	and to	$2,500,000	10	per cent
Over	$2,500,000	and to	$3,000,000	11	per cent
Over	$3,000,000			12	per cent

Exemptions for Class A.

(b) The persons mentioned in this class shall be entitled to the following exemptions: Widows, ten thousand dollars ($10,000.00); each child under twenty-one years of age, five thousand dollars ($5,000.00); all other beneficiaries mentioned in this section, two thousand dollars ($2,000.00) each: *Provided*, a grandchild or grandchildren shall be allowed the single exemption or pro rata part of the exemption of the parent, when the parent of any one grandchild or group of grandchildren is deceased or when the parent is living and does not share in the estate: *Provided*, that any part of the exemption not applied to the share of the parent may be applied to the share of a grandchild or group of grandchildren of such parent. The same rule shall apply to the taking under a will, and also in case of a specific legacy or devise: *Provided*, that when any person shall die leaving a widow and child or children under twenty-one years of age, and leaving all or substantially all of his property by will to his wife, the wife shall be allowed an additional exemption of five thousand dollars ($5,000.00) for each child under twenty-one years of age.

Per stirpes exemption.

Grandchildren.

Where wife is chief beneficiary and children survive.

Rate of tax—Class B.

SEC. 4. *Rate of tax—Class B.*

Brother, sister or issue of either; aunt or uncle.

Where the person or persons entitled to any beneficial interest in such property shall be the brother or sister of descendant of the brother or sister, or shall be the uncle or aunt by blood of the person who died possessed as aforesaid, at the following rates of tax (for each one hundred dollars ($100.00) or fraction thereof) of the value of such interest:

Rate schedule.

First	$ 5,000			4	per cent
Over	$ 5,000	and to	$ 10,000	5	per cent
Over	$ 10,000	and to	$ 25,000	6	per cent
Over	$ 25,000	and to	$ 50,000	7	per cent
Over	$ 50,000	and to	$ 100,000	8	per cent
Over	$ 100,000	and to	$ 250,000	10	per cent
Over	$ 250,000	and to	$ 500,000	11	per cent
Over	$ 500,000	and to	$1,000,000	12	per cent
Over	$1,000,000	and to	$1,500,000	13	per cent
Over	$1,500,000	and to	$2,000,000	14	per cent
Over	$2,000,000	and to	$3,000,000	15	per cent
Over	$3,000,000			16	per cent

SEC. 5. *Rate of tax—Class C.*

Rate of tax—Class C.

Where the person or persons entitled to any beneficial interest in such property shall be in any other degree of relationship or collateral consanguinity than is hereinbefore stated, or shall be a stranger in blood to the person who died possessed as aforesaid, or shall be a body politic or corporate, at the following rates of tax (for each one hundred dollars ($100.00) or fraction thereof) of the value of such interest:

Other relationships or strangers in blood.

Corporations.

Rate schedule.

First	$ 10,000			8	per cent
Over	$ 10,000	and to	$ 25,000	9	per cent
Over	$ 25,000	and to	$ 50,000	10	per cent
Over	$ 50,000	and to	$ 100,000	11	per cent
Over	$ 100,000	and to	$ 250,000	12	per cent
Over	$ 250,000	and to	$ 500,000	13	per cent
Over	$ 500,000	and to	$1,000,000	14	per cent
Over	$1,000,000	and to	$1,500,000	15	per cent
Over	$1,500,000	and to	$2,500,000	16	per cent
Over	$2,500,000			17	per cent

SEC. 6. *Estate tax.*

Estate tax.

(a) A tax in addition to the inheritance tax imposed by this schedule is hereby imposed upon the transfer of the net estate of every decedent dying after the enactment of this schedule, whether a resident or non-resident of the State, where the inheritance tax imposed by this schedule is in the aggregate of a lesser amount than the maximum credit of eighty per cent (80%) of the Federal estate tax allowed by the Federal Estate Tax Act as contained in the Federal Revenue Act of one thousand nine hundred and twenty-six, or subsequent Acts and amendments, because of said tax herein imposed, then the inheritance tax provided for by this schedule shall be increased by an estate tax on the net estate so that the aggregate amount of tax due this State shall be the maximum amount of credit allowed under said Federal Estate Tax Act; said additional tax shall be paid out of the same funds as any other tax against the estate.

Collectible where inheritance tax is less than Federal estate tax allowance.

Computation.

(b) Where no tax is imposed by this schedule because of the exemptions herein or otherwise, and a tax is due the United States under the Federal Estate Tax Act, then a tax shall be due this State equal to the maximum amount of the credit allowed under said Federal Estate Tax Act.

Estate tax collectible where tax is due U. S. Government but not State.

(c) The administrative provisions of this schedule, wherever applicable, shall apply to the collection of the tax imposed by this section. The amount of the tax as imposed by subsection (a) of this section shall be computed in full accordance with the Federal Estate Tax Act as contained in the Federal Revenue

Computation same as under Federal Act.

Act of one thousand nine hundred and twenty-six, or subsequent Acts and amendments.

Partial invalidity section.

(d) If this section, or any subsection, phrase or clause thereof, is for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portion or portions of this schedule in force at the time of the enactment of this section, nor shall such decision affect the validity of the remaining portion or portions of this section.

Credit allowed for gift tax paid.

SEC. 6½. *Credit allowed for gift tax paid.*

In case a tax has been imposed under Article G of the Revenue Act of one thousand nine hundred and thirty-seven, or under subsequent Acts, upon any gift, and thereafter upon the death of the donor, the amount thereof is required by any provision of this article to be included in the gross estate of the decedent, then there shall be credited against and applied in reduction of the tax, which would otherwise be chargeable against the beneficiaries of the estate under the provisions of this article, an amount equal to the tax paid with respect to such gift. Any additional tax found to be due because of the inclusion of gifts in the gross estate of the decedent, as provided herein, shall be a tax against the estate and shall be paid out of the same funds as any other tax against the estate.

Deductions.

SEC. 7. *Deductions.*

In determining the clear market value of property taxed under this article, or schedule, the following deductions, and no others, shall be allowed:

Taxes.

(a) Taxes that have become due and payable, and the pro rata part of taxes accrued for the fiscal year that have not become due and payable.

Special assessments.

(b) Drainage and street assessments (fiscal year in which death occurred).

Funeral expenses.

(c) Reasonable funeral and burial expenses.

Debts.

(d) Debts of decedent.

Other inheritance or estate taxes.

(e) Estate and inheritance taxes paid to other states, and death duties paid foreign countries, and the net amount of Federal estate taxes as finally assessed under the Revenue Act of one thousand nine hundred and twenty-six. No deduction will be allowed for Federal estate taxes levied by subsequent Acts and amendments.

Monuments up to $500.

(f) Amount actually expended for monuments not exceeding the sum of five hundred dollars ($500.00).

(g) Commissions of executors and administrators actually allowed and paid. Commissions.

(h) Costs of administration, including reasonable attorneys' fees. Administration costs.

SEC. 8. *Where no personal representative appointed, Clerk of Superior Court to certify same to Commissioner of Revenue.*

Whenever an estate subject to the tax under this Act shall be settled or divided among the heirs-at-law, legatees or devisees, without the qualification and appointment of a personal representative, the Clerk of the Superior Court of the county wherein the estate is situated shall certify the same to the Commissioner of Revenue, whereupon the Commissioner of Revenue shall proceed to appraise said estate and collect the inheritance tax thereon as prescribed by this Act. Collection of tax where no personal representative named for estate.

SEC. 9. *Tax to be paid on shares of stock before transferred, and penalty for violation.*

(a) Property taxable within the meaning of this Act shall include bonds or shares of stock in any incorporated company incorporated in this State, regardless of whether or not such incorporated company shall have any or all of its capital stock invested in property outside of this State and doing business outside of this State, and the tax on the transfer of any bonds and/or shares of stock in any such incorporated company owning property and doing business outside of the State shall be paid before waivers are issued for the transfer of such shares of stock. No corporation of this State shall transfer any bonds or stock of said corporation standing in the name of or belonging to a decedent or in the joint names of a decedent and one or more persons, or in trust for a decedent, unless notice of the time of such transfer is served upon the Commissioner of Revenue at least ten days prior to such transfer, nor until said Commissioner of Revenue shall consent thereto in writing. Any corporation making such a transfer without first obtaining consent of the Commissioner of Revenue as aforesaid shall be liable for the amount of any tax which may thereafter be assessed on account of the transfer of such bonds and/or stock, together with the interest thereon, and in addition thereto a penalty of one thousand dollars ($1,000.00), which liability for such tax, interest, and penalty, may be enforced by an action brought by the State in the name of the Commissioner of Revenue. The word "transfer" as used in this Act shall be taken to include the passing of property or any interest therein, in possession or enjoyment, present or future, by distribution, or by statute, descent, devise, bequest, grant, deed, bargain, sale, gift, or otherwise. A waiver signed by the Commissioner of Revenue of North Carolina shall be

Tax on shares of stock or bonds before transfer.

Consent of Commissioner of Revenue, in writing, necessary before transfer.

Penalty for violation.

"Transfer" defined.

Waiver of Commissioner as protection.

full protection for any such company in the transfer of any such stock.

Penalty for transfer by unincorporated companies.

(b) Any incorporated company not incorporated in this State and owning property in this State which shall transfer on its books the shares of stock of any resident decedent holder of bonds and/or shares of stock in such company exceeding in value two hundred dollars ($200.00) before the inheritance tax, if any, has been paid, shall become liable for the payment of said tax; and any property held by such company in this State shall be subject to execution to satisfy same. A receipt or waiver signed by the Commissioner of Revenue of North Carolina shall be full protection for any such company in the transfer of any such stock.

Waiver of Commissioner.

Blanks furnished by Commissioner.

SEC. 10. *Commissioner of Revenue to furnish blanks and require reports of value of shares of stock.*

(a) The Commissioner of Revenue shall prepare and furnish, upon application, blank forms covering such information as may be necessary to determine the amount of inheritance tax due the State of North Carolina on the transfer of any such bonds and/or stock; he shall determine the value of such bonds and/or stock, and shall have full authority to do all things necessary to make full and final settlement of all such inheritance taxes due or to become due.

Value of stocks or bonds computed.

Reports required.

(b) The Commissioner of Revenue shall have authority, under penalties provided in this Act, to require that any reports necessary to a proper enforcement of this Act be made by any such incorporated company owning property in this State.

Life insurance policies.

SEC. 11. *Life insurance policies.*

The proceeds of all life insurance policies payable at or after death of the insured when the premiums have been paid by the insured, and whether payable to the estate of the insured or to a beneficiary or beneficiaries named in the policy, shall be taxable at the rates provided for in this article, subject to the exemptions in Section two of this article.

Rate of tax.

Recurring taxes.

SEC. 12. *Recurring taxes.*

Where property transferred has been taxed under the provisions of this article, such property shall not be assessed and/or taxed on account of any other transfer of like kind occurring within two years from the date of the death of the former decedent: *Provided,* that this section shall apply only to the transferees designated in Sections three and four of this article.

Only one levy on same property within two years.

Application of rule.

SEC. 13. *When all heirs, legatees, etc., are discharged from liability.*

All heirs, legatees, devisees, administrators, executors, and trustees shall only be discharged from liability for the amount of such taxes, settlement of which they may be charged with, by paying the same for the use aforesaid as hereinafter provided.

Discharge of heirs, etc. from liability by payment of tax.

SEC. 14. *Discount for payment in six months; interest after twelve months; penalty after two years.*

All taxes imposed by this Act shall be due and payable at the death of the testator, intestate, grantor, donor, or vendor, and if the same are paid within six months from the date of the death of the testator, intestate, grantor, donor, vendor, a discount of three per centum (3%) shall be allowed and deducted from such taxes; if not paid within twelve months from date of death of the testator, intestate, grantor, donor, or vendor, such tax shall bear interest at the rate of six per centum (6%) per annum, to be computed from the expiration of twelve months from the date of the death of such testator, intestate, grantor, donor, or vendor until paid: *Provided*, that if the taxes herein levied shall not be paid in full within two years from date of death of testator, intestate, grantor, donor, or vendor, then and in such case a penalty of five per centum (5%) upon the amount of taxes remaining due and unpaid shall be added: *Provided further*, that the penalty of five per centum (5%) herein imposed may be remitted by the Commissioner of Revenue in case of unavoidable delay in settlement of estate or of pending litigation, and the Commissioner of Revenue is further authorized, in case of protracted litigation or other delay in settlement not attributable to laches of the party liable for the tax, to remit all or any portion of the interest charges accruing under this schedule, with respect to so much of the estate as was involved in such litigation or other unavoidable cause of delay: *Provided*, that time for payment and collection of such tax may be extended by the Commissioner of Revenue for good reasons shown.

Discount of 3% for payment within six months.

Penalty after twelve months.

Penalty after two years.

Remission of penalty for cause.

Extension of time for cause.

SEC. 15. *Collection to be made by Sheriff if not paid in two years.*

If taxes imposed by this Act are not paid within two years after the death of the decedent, it shall be the duty of the Commissioner of Revenue to certify to the Sheriff of the county in which the estate is located the amount of tax due upon such inheritance, and the Sheriff shall collect the same as other taxes, with an addition of two and one-half per cent (2½%) as Sheriff's fees for collecting same, which fees shall be in addition to any salary or other compensation allowed by law to the

Collection by Sheriff of delinquent taxes.

Fees added.

Levy and sale by Sheriff.

Return by Sheriff.

Sheriffs for their services; and the Sheriff is hereby given the same rights of levy and sale upon any property upon which the said tax is payable as said officer is given for the collection of any and all other taxes. The Sheriff shall make return to the Commissioner of Revenue of all such taxes within thirty days after collection.

Sec. 16. *Executor, etc., shall deduct tax.*

Personal representative to deduct tax before distribution.

The executor or administrator or other trustee paying any legacy or share in the distribution of any estate subject to said tax shall deduct therefrom at the rate prescribed, or if the legacy or share in the estate be not money, he shall demand payment of a sum to be computed at the same rates upon the appraised value thereof for the use of the State; and no executor or administrator shall pay or deliver any specific legacy or article to be distributed, subject to tax, except on the payment into his hands of a sum computed on its value as aforesaid; and in case of neglect or refusal on the part of said legatee to pay the same, such specific legacy or article, or so much thereof as shall be necessary, shall be sold by such executor or administrator at public sale, after notice to such legatee, and the balance that may be left in the hands of the executor or administrator shall be distributed as is or may be directed by law; and every sum of money retained by any executor or administrator or paid into his hands on account of any legacy or distributive share for the use of the State shall be paid by him to the proper officer without delay.

Sale of legacies to enforce payment of tax.

Sec. 17. *Legacy for life, etc., tax to be retained, etc., upon the whole amount.*

Apportionment of tax between particular estates and remainders.

If the legacy or devise subject to said tax be given to a beneficiary for life or for a term of years, or upon condition or contingency, with remainder to take effect upon the termination of the life estate or the happening of the condition or contingency, the tax on the whole amount shall be due and payable as in other cases, and said tax shall be apportioned between such life tenant and the remainderman, such apportionment to be made by computation based upon the mortuary and annuity tables set out as Sections one thousand seven hundred and ninety and one thousand seven hundred and ninety-one of the Consolidated Statutes, and upon the basis of six per centum (6%) of the gross value of the estate for the period of expectancy of the life tenant in determining the value of the respective interests. When property is transferred or limited in trust or otherwise, and the rights, interest, or estate of the transferees or beneficiaries are dependent upon contingencies or conditions whereby they may be wholly or in part created, defeated, extended, or abridged, a tax shall be imposed upon

Method of computation.

Highest rates permissible, on trust and contingent estates.

said transfer at the highest rate, within the discretion of the Revenue Commissioner, which on the happening of any of the said contingencies or conditions would be possible under the provisions of this Act, and such tax so imposed shall be due and payable forthwith out of the property transferred, and the Commissioner of Revenue shall assess the tax on such property.

SEC. 18. *Legacy charged upon real estate, heir, or devisee to deduct and pay to executor, etc.*

Payment of tax on legacy charged upon real estate.

Whenever such legacy shall be charged upon or payable out of real estate, the heir or devisee of such real estate, before paying the same to such legatee, shall deduct the tax therefrom at the rates aforesaid, and pay the amount so deducted to the executor or administrator or the Commissioner of Revenue, and the same shall remain a charge upon such real estate until paid, and in default thereof the same shall be enforced by the decrees of the court in the same manner as the payment of such legacy may be enforced: *Provided,* that all taxes imposed by this Act shall be a lien upon the real and personal property of the estate on which the tax is imposed or upon the proceeds arising from the sale of such property from the time said tax is due and payable, and shall continue a lien until said tax is paid and receipted for by the proper officer of the State: *Provided further,* that no lien for inheritance or estate taxes which accrued prior to May first, one thousand nine hundred and twenty-eight shall attach or affect the land.

Method of enforcing payment.

Tax declared a continuing lien until paid.

No liens as to taxes accruing prior to May 1st, 1928.

SEC. 19. *Computation of tax on resident and non-resident decedents.*

Computation of tax on non-resident decedents.

A tax shall be assessed on the transfer of property, including property specifically devised or bequeathed, made subject to tax as aforesaid in this State of a resident or non-resident decedent, if all or any part of the estate of such decedent, wherever situated, shall pass to persons or corporations taxable under this Act, which tax shall bear the same ratio to the entire tax which the said estate would have been subject to under this Act if such decedent had been a resident of this State, and all his property, real and personal, had been located within this State, as such taxable property within this State bears to the entire estate, wherever situated. It shall be the duty of the personal representative to furnish to the Commissioner of Revenue such information as may be necessary or required to enable the Commissioner to ascertain a proper computation of his tax. Where the personal representative fails or refuses to furnish information from which this assessment can be made, the property in this State liable to tax under this Act shall be taxed at the highest rate applicable to those who are strangers in blood.

Ratio of tax.

Information to be furnished to Commissioner.

Highest rate applicable in event of failure.

Duties of Clerks of the Superior Court.

SEC. 20. *Duties of the Clerks of the Superior Court.*

General information to be obtained at time of issuance of letters.

(a) It shall be the duty of the Clerk of the Superior Court to obtain from any executor or administrator, at the time of the qualification of such executor or administrator, the address of the personal representative qualifying, the names and addresses of the heirs-at-law, legatees, distributees, devisees, etc., as far as practical; the approximate value and character of the property or estate, both real and personal; the relationship of the heirs-at-law, legatees, devisees, etc., to the decedents, and forward the same to the Commissioner of Revenue on or before the tenth day of each month; and the Commissioner of Revenue shall furnish the several clerks blanks upon which to make said report, but the failure to so furnish blanks shall not relieve the clerk from the duty herein imposed. The clerk shall make no report of a death where the estate of a decedent is less than two thousand dollars ($2,000.00) in value, when the beneficiary is husband or wife or child or grandchild of the decedent. Any Clerk of the Superior Court who shall fail, neglect, or refuse to file such monthly reports as required by this section shall be liable to a penalty in the sum of one hundred dollars ($100.00) to be recovered by the Commissioner of Revenue in an action to be brought by the Commissioner of Revenue.

Monthly report to Commissioner.

Blanks for reports.

Small estates excepted.

Penalty for failure to file monthly reports.

Clerks required to keep inheritance tax records.

(b) It shall also be the duty of the Clerk of the Superior Court of each of the several counties of the State to enter in a book, prepared and furnished by the Commissioner of Revenue, to be kept for that purpose, and which shall be a public record, a condensed copy of the settlement of inheritance taxes of each estate, together with a copy of the receipt showing payment, or a certificate showing no tax due, as shall be certified to him by the Commissioner of Revenue.

Fees allowed to Clerks.

(c) For these services, where performed by the clerk, the clerk shall be paid by the Commissioner of Revenue, when certificates and receipts are sent in to be recorded, as follows: For recording the certificate of the Commissioner of Revenue showing no tax due, the sum of fifty cents (50c). For recording the certificate of the Commissioner of Revenue showing that the tax received by the State is one hundred dollars ($100.00) or less, he shall be paid the sum of one dollar ($1.00). For recording the certificate of the Commissioner of Revenue showing that the tax received by the State is more than one hundred dollars ($100.00) and not over five hundred dollars ($500.00) he shall be paid the sum of two dollars ($2.00). For recording the certificate of the Commissioner of Revenue showing that the tax received by the State is more than five hundred dollars ($500.00) he shall be paid the sum of five dollars ($5.00), which sum shall be the maximum amount paid for recording the certificate of the Commissioner of Revenue for any one estate: *Provided*, that where the decedent owns real estate in one or more counties, other than the county in which the administration of the estate is had, then the fee of the clerks of

Maximum fees.

Fees where realty is situate in several counties.

the court of such other counties for recording the certificates of the Commissioner of Revenue shall be fifty cents (50c) each, and the same fee shall be paid for like service by the clerks in case of the settlement of the estates of non-residents. The Clerk of the Superior Court shall receive the sum of fifty cents (50c) for making up and transmitting to the Commissioner of Revenue the report required in this section, containing a list of persons who died leaving property in his county during the preceding month, etc.: *Provided further*, that where the Clerk of the Superior Court has failed or neglected to make the report required of him in this section, in that case he shall only receive for recording the certificate of the Commissioner of Revenue the sum of fifty cents (50c).

Fees for making reports.

Forfeiture of fees for failure to make reports.

The Clerks of the Superior Court of the several counties shall be allowed the fees provided for in this section in addition to other fees or salaries received by them, and any and all provisions in local Acts in conflict with this Act are hereby repealed.

Fees in addition to other compensation.

SEC. 21. *Information by administrator and executor.*

Every administrator shall prepare a statement in duplicate, showing as far as can be ascertained the names of all the heirs-at-law and their relationship to decedent, and every executor shall prepare a like statement, accompanied by a copy of the will, showing the relationship to the decedent of all legatees, distributees, and devisees named in the will, and the age at the time of the death of the decedent of all legatees, distributees, devisees to whom property is bequeathed or devised for life or for a term of years, and the names of those, if any, who have died before the decedent, together with the postoffice address of executor, administrator, or trustee. If any of the heirs-at-law, distributees, and devisees are minor children of the decedent, such statement shall also show the age of each of such minor children. The statement shall also contain a complete inventory of all the real property of the decedent located in and outside the State, and of all personal property, wherever situate, of the estate, of all insurance policies upon the life of the decedent, together with an appraisal under oath of the value of each class of property embraced in the inventory, and the value of the whole, together with any deductions permitted by this statute, so far as they may be ascertained at the time of filing such statement; and also the full statement of all gifts or advancements made by deed, grant, or sale to any person or corporation, in trust or otherwise, within three years prior to the death of the decedent. The statement herein provided for shall be filed with the Commissioner of Revenue at Raleigh, North Carolina, within six months after the qualification of the executor or administrator, upon blank forms to be prepared by the Commissioner of Revenue. If any administrator or executor fails or refuses to comply with any of the requirements of this section, he shall be liable to a penalty in the sum of five hundred dollars ($500.00), to be recovered by the Commissioner of Revenue in action to be brought by the Commissioner of Revenue to collect

Reports required of administrators and executors.

Contents of reports.

Minors.

Inventory required.

Deductions.

Gifts and advancements.

Reports filed with Commissioner of Revenue within six months.

Penalty for refusal to make reports.

such sum in the Superior Court of Wake County against such administrator or executor. The Commissioner of Revenue, for good cause shown, may remit all or any portion of the penalty imposed under the provisions of this section. Every executor or administrator may make a tentative settlement of the inheritance tax with the Commissioner of Revenue, based on the sworn inventory provided in this section: *Provided,* that this does not apply to estates of less than two thousand dollars ($2,000.00) in value when the beneficiaries are husband or wife or children or grandchildren, or parent or parents of the decedent. If any executor, administrator, collector, committee, trustee or any other fiduciary within or without this State holding or having control of any funds, property, trust or estate, the transfer of which becomes taxable under the provisions of this Act, shall fail to file the statements herein required, within the times herein required, the Commissioner of Revenue is authorized and shall be required to secure the information herein required from the best sources available, and therefrom assess the taxes levied hereunder, together with the penalties herein and otherwise provided.

Remission of penalty for cause.

Tentative settlements.

Inapplicable to small estates.

Failure to file statements required authorizes Commissioner to make assessment.

SEC. 21½. *Regulations governing access to safe deposits of a decedent.*

No safe deposit company, trust company, corporation, bank, or other institution, person or persons having in possession or control or custody, in whole or in part, securities, deposits, assets, or property belonging to or standing in the name of a decedent, or belonging to or standing in the joint names of a decedent and one or more persons, shall deliver or transfer the same to any person whatsoever, whether in a representative capacity or not, or to the survivor or to the survivors when held in the joint names of a decedent and one or more persons, without retaining a sufficient portion or amount thereof to pay taxes or interest which would thereafter be assessed thereon under this Act; but the Commissioner of Revenue may consent in writing to such delivery or transfer, and such consent shall relieve said safe deposit company, trust company, corporation, bank or other institution, person or persons from the obligation herein imposed. *Provided:* The Clerk of Superior Court of the resident county of a decedent may authorize in writing any bank, safe deposit company, trust company, or any other institution to transfer to the properly qualified representative of the estate any funds on deposit in the name of the decedent or the decedent and one or more persons when the total amount of such deposit or deposits is three hundred dollars ($300.00) or less, and when such deposit or deposits compose the total cash assets of the estate. Such authorization shall have the same force and effect as when issued in writing by the Commissioner of Revenue. Every safe deposit company, trust company, corporation, bank or other institution, person, or persons engaged in the business of renting lock boxes for the safe keeping of valuable papers and personal effects, or having in their possession or

Banks forbidden to allow assets to be taken from safe deposits without retaining sufficient amount for tax.

Waiver by Commissioner.

Authorization by Clerk Superior Court of transfer of small deposits composing total assets.

Presence of Clerk of Superior Court required when lock boxes are opened.

supervision in such lock boxes such valuable papers or personal effects shall, upon the death of any person using such lock box, as a condition precedent to the opening of such lock box by the executor, administrator, personal representative, or co-tenant of such deceased person, require the presence of the Clerk of the Superior Court of the county in which such lock box is located. It shall be the duty of the Clerk of the Superior Court, or his representative, in the presence of an officer or representative of the safe deposit company, trust company, corporation, bank, or other institution, person or persons, to make an inventory of the contents of any such lock box and to furnish a copy of such inventory to the Commissioner of Revenue, to the executor, administrator, personal representative, or co-tenant of the decedent, and a copy to the safe deposit company, trust company, corporation, bank, or other institution, person, or persons having possession of such lock box. The Clerk of the Superior Court shall be paid by the representative of said estate at the time of his qualification the sum of two dollars ($2.00) for his services rendered as hereinbefore prescribed in this section, and in addition thereto he shall receive the same mileage as is now allowed by law to witnesses for going from his office to any place located in his county to perform such services. The Clerks of the Superior Court of the several counties shall be allowed the fees provided for in this section in addition to other fees or salaries received by them, and any and all provisions in local Acts in conflict with this Act are hereby repealed. Notwithstanding any of the provisions of this section any life insurance company may pay the proceeds of any policy upon the life of a decedent to the person entitled thereto as soon as it shall have mailed to the Commissioner of Revenue a notice, in such form as the Commissioner of Revenue may prescribe, setting forth the fact of such payment; but if such notice be not mailed, all of the provisions of this section shall apply.

Inventory of contents of lock boxes to be made by Clerk.

Copies of inventory.

Fee to Clerk for services, in addition to other compensation.

Payment of life insurance policies authorized after notice to Commissioner.

Failure to comply with the provisions of this section shall render such safe deposit company, trust company, corporation, bank or other institution, person or persons liable for the amount of the taxes and interest due under this Act on the succession to such securities, deposits, assets, or property, but in any action brought under this provision it shall be a sufficient defense that the delivery or transfer of securities, deposits, assets, or property was made in good faith without knowledge of the death of the decedent and without knowledge of circumstances sufficient to place the defendant on inquiry.

Liability for tax incurred upon violation.

Defenses.

SEC. 22. *Supervision by Commissioner of Revenue.*

The Commissioner of Revenue shall have complete supervision of the enforcement of all provisions of the Inheritance Tax Act and the collections of all inheritance taxes found to be due thereunder, and shall make all necessary rules and regulations for the just and equitable administration thereof. He shall regularly

Enforcement of Inheritance Tax Act under supervision of Commissioner.

Assistants authorized.

Duties of assistants enumerated.

employ such deputies, attorneys, examiners, or special agents as may be necessary for the reasonable carrying out of its full intent and purpose. Such deputies, attorneys, examiners, or special agents shall, as often as required to do so, visit the several counties of the State to inquire and ascertain if all inheritance taxes due from estates of decedents, or heirs-at-law, legatees, devisees, or distributees thereof have been paid; to see that all statements required by this Act are filed by administrators and executors, or by the beneficiaries under wills where no executor is appointed; to examine into all statements filed by such administrators and executors; to require such administrators and executors to furnish any additional information that may be deemed necessary to determine the amount of tax that should be paid by such estate.

Additional appraisals.

If not satisfied, after investigation, with valuation returned by the administrator or executor, the deputy, attorney, examiner, or appraiser shall make an additional appraisal after proper examination and inquiry, or may, in special cases, recommend the appointment by the Commissioner of Revenue of a special appraiser who, in such case, shall be paid five dollars ($5.00) per day and expenses for his services. The administrator or executor, if not satisfied with such additional appraisal, may appeal within thirty days to the Commissioner of Revenue, which appeal shall be heard and determined as other cases. From this decision the administrator or executor shall have the right to appeal to the Superior Court of the county in which said estate is situated for the purpose of having said issue tried; said appeal to be made in the same way and manner as is now provided by law for appeals from the decisions of the Public Utilities Commission: *Provided*, that the tax shall first be paid, or satisfactory surety bond in double the amount of any alleged deficiency shall be filed with the Commissioner pending an appeal; and if it shall be determined upon trial that said tax or any part thereof was illegal or excessive, judgment shall be rendered therefor with interest, and the amount of tax so adjudged overpaid or declared invalid shall be certified by the clerk of court to the Commissioner of Revenue, who is authorized and directed to draw his account on the State Treasurer for the amount thereof.

Special appraisers; compensation.

Appeal by administrators or executors from appraisals.

Payment of tax or security therefor required.

Judgment for overpayment and refund.

SEC. 23. *Proportion of tax to be repaid upon certain conditions.*

Refund of portion of tax where legatee forced to pay debts of deceased.

Whenever debts shall be proven against the estate of a decedent after the distribution of legacies from which the inheritance tax has been deducted in compliance with this Act, and the legatee is required to refund any portion of the legacy, a proportion of the said tax shall be repaid to him by the executor or administrator if the said tax has not been paid into the State Treasury, or shall be refunded by the State Treasurer, if it has been so paid in, upon certificate of the Commissioner of Revenue.

SEC. 24. *Commissioner of Revenue may order executor, etc., to file account, etc.*

Commissioner may order reports and accounts filed.

If the Commissioner of Revenue shall discover that reports and accounts have not been filed, and the tax, if any, has not been paid as provided in this Act, he shall issue a citation to the executor, administrator, or trustee of the decedent whose estate is subject to tax, to appear at a time and place therein mentioned, not to exceed twenty days from the date thereof, and show cause why said report and account should not be filed and said tax paid; and when personal service cannot be had, notice shall be given as provided for service of summons by publication in the county in which said estate is located; and if said tax shall be found to be due, the said delinquent shall be adjudged to pay said tax, interest and cost; if said tax shall remain due and unpaid for a period of thirty days after notice thereof, the Commissioner of Revenue shall certify the same to the Sheriff, who shall make collection of said tax, cost and commissions for collection, as provided in Section fourteen of this Act.

Citation to show cause.

Service of citation.

Compelling payment of tax.

SEC. 25. *Failure of administrator, executor, or trustee to pay tax.*

Administrators and executors become personally liable upon failure to pay tax.

Any administrator, executor, or trustee who shall fail to pay the lawful inheritance taxes due upon any estate in his hands or under his control within two years from the time of his qualification shall be liable for the amount of the said taxes, and the same may be recovered in an action against such administrator, executor, or trustee, and the sureties on his official bond. Any clerk of the court who shall allow any administrator, executor, or trustee to make a final settlement of his estate without having paid the inheritance tax due by law, and exhibiting his receipt from the Commissioner of Revenue therefor, shall be liable upon his official bond for the amount of such taxes.

Actions to recover.

Liability of Clerks.

SEC. 26. *Uniform valuation.*

Uniform valuation.

Report to Commissioner as to values fixed by Federal Government.

(a) If the value of any estate taxed under this schedule shall have been assessed and fixed by the Federal Government for the purpose of determining the Federal taxes due thereon prior to the time the report from the executor or administrator is made to the Commissioner of Revenue under the provisions of this Act, the amount of value of such estate so fixed, assessed, and determined by the Federal Government shall be stated in such report. If the assessment of the estate by the Federal Government shall be made after the filing of the report by the executor or administrator with the Commissioner of Revenue, as provided in this Act, the said executor or administrator shall, within thirty days after receipt of notice of the final determination by the Federal Government of the value or amount of said estate as assessed and determined for the purpose of fixing Federal taxes thereon, make report of the amount so fixed and assessed by the Federal Gov-

ernment, under oath or affirmation, to the Commissioner of Revenue. If the amount of said estate as assessed and fixed by the Federal Government shall be in excess of that theretofore fixed or assessed under this schedule for the purpose of determining the amount of taxes due the State from said estate, then the Commissioner of Revenue shall reassess said estate and fix the value thereof at the amount fixed, assessed, and determined by the Federal Government, unless the said executor or administrator shall, within thirty days after notice to him from the Commissioner of Revenue, show cause why the valuation and assessment of said estate as theretofore made should not be changed or increased. If the valuation placed upon said estate by the Federal Government shall be less than that theretofore fixed or assessed under this Act, the executor or administrator may, within thirty days after filing his return of the amount so fixed or assessed by the Federal Government, file with the Commissioner of Revenue a petition to have the value of said estate reassessed and the same reduced to the amount as fixed or assessed by the Federal Government. In either event the Commissioner of Revenue shall proceed to determine, from such evidence as may be brought to his attention or which he shall otherwise acquire, the correct value of the said estate, and if valuation is changed, he shall reassess the taxes due by said estate under this Act and notify the executor or administrator of such fact. In the event the valuation on said estate shall be decreased, and if there shall have been an overpayment of the tax, the said commissioner shall, within sixty days after the final determination of the value of said estate and the assessment of the correct amount of tax against the same, refund the amount of such excess tax theretofore paid.

Reassessment where valuation of Federal Government exceeds that of State.

Objection to change or increase.

Petition for reduction where Federal valuation is less than that fixed by State.

Determination of value by Commissioner.

Refund of overpayments.

(b) If the executor or administrator shall fail to file with the Commissioner of Revenue the return under oath or affirmation, stating the amount of value at which the estate was assessed by the Federal Government as provided for in this section, the Commissioner of Revenue shall assess and collect from the executor or administrator a penalty equal to twenty-five per cent (25%) of the amount of any additional tax which may be found to be due by such estate upon reassessment and reappraisal thereof, which penalty shall under no condition be less than twenty-five dollars ($25.00) or more than five hundred dollars ($500.00) and which cannot be remitted by the Commissioner of Revenue except for good cause shown. The Commissioner of Revenue is authorized and directed to confer quarterly with the Department of Internal Revenue of the United States Government to ascertain the value of estates in North Carolina which have been assessed for taxation by the Federal Government, and he shall cooperate with the said Department of Internal Revenue, furnishing to said department such information concerning estates in North Carolina as said department may request.

Penalty for failure to report as to value fixed by Federal Government.

Maximum and minimum penalties.

Cooperation by Commissioner with Federal authorities.

SEC. 27. *Executor defined.*

"Executor" defined.

Wherever the word "executor" appears in this Act it shall include executors, administrators, collectors, committees, trustees, and all fiduciaries.

Additional remedies for enforcement.

SEC. 28. In addition to all other remedies which may now exist under the law, or may hereafter be established, for the collection of the taxes imposed by the preceding sections of this article, the tax so imposed shall be a lien upon all of the property and upon all of the estate, with respect to which the taxes are levied, as well as collectible out of any other property, resort to which may be had for their payment; and the said taxes shall constitute a debt, which may be recovered in an action brought by the Commissioner of Revenue in any court of competent jurisdiction in this State, and/or in any court having jurisdiction of actions of debt in any state of the United States, and/or in any court of the United States against an administrator, executor, trustee, or personal representative, and/or any person, corporation, or concern having in hand any property, funds, or assets of any nature, with respect to which such tax has been imposed. No title or interest to such estate, funds, assets, or property shall pass, and no disposition thereof shall be made by any person claiming an interest therein until the said taxes have been fully paid.

Lien on property.

Declared debt.

Actions to recover.

Title does not pass until tax paid.

SEC. 29. *Reciprocal relations in respect to death taxes.*

"Death tax" and "death taxes" defined.

(a) The terms "death tax" and "death taxes" as used in the five following subsections, shall include inheritance, succession, transfer and estate taxes and any taxes levied against the estate of a decedent upon the occasion of his death.

Filing proof that death taxes on estate of non-resident decedent have been paid in domiciliary state.

(b) At any time before the expiration of eighteen months after the qualification in any probate court in this commonwealth of any executor of the will or administrator of the estate of any non-resident decedent, such executor or administrator shall file with such court proof that all death taxes, together with interest or penalties thereon, which are due to the state of domicile of such decedent, or to any political sub-division thereof, have been paid or secured, or that no such taxes, interest or penalties are due, as the case may be, unless it appears that letters testamentary or of administration have been issued on the estate of such decedent in the state of his domicile in the four following subsections called the domiciliary state.

Type of proof required.

(c) The proof required by subsection (b) may be in the form of a certificate issued by the official or body charged with the administration of the death tax laws of the domiciliary state. If such proof has not been filed within the time limited in subsection (b), and if within such time it does not appear that letters testamentary or of administration have been issued in the domiciliary state, the register of probate shall forthwith upon the ex-

Notice to domiciliary state where proof has not been filed.

piration of such time notify by mail the official or body of the domiciliary state charged with the administration of the death tax laws thereof with respect to such estate, and shall state in such notice so far as is known to him (a) the name, date of death and last domicile of such decedent, (b) the name and address of each executor or administrator, (c) a summary of the values of the real estate, tangible personalty, and intangible personalty, wherever situated, belonging to such decedent at the time of his death, and (d) the fact that such executor or administrator has not filed theretofore the proof required in subsection (b). Such register shall attach to such notice a plain copy of the will and codicils of such decedent, if he died testate, or, if he died intestate, a list of his heirs and next of kin, so far as is known to such register. Within sixty days after the mailing of such notice the official or body charged with the administration of the death tax laws of the domiciliary state may file with such probate court in this commonwealth a petition for an accounting in such estate, and such official or body of the domiciliary state shall, for the purposes of this section, be a party interested for the purpose of petitioning such probate court for such accounting. If such petition be filed within said period of sixty days, such probate court shall decree such accounting, and upon such accounting being filed and approved shall decree either the payment of any such tax found to be due to the domiciliary state or sub-division thereof or the remission to a fiduciary appointed or to be appointed by the probate court, or other court charged with the administration of estates of decedents, of the domiciliary state, of the balance of the intangible personalty after the payment of creditors and expenses of administration in this commonwealth.

Contents of notice.

Copy of will attached to notice.

List of heirs.

Petition for accounting.

Decree for accounting.

Requisites before final account of personal representative of non-resident decedent allowed.

(d) No final account of an executor or administrator of a non-resident decedent shall be allowed unless either (1) proof has been filed as required by subsection (b), or (2) notice under subsection (c) has been given to the official or body charged with the administration of the death tax laws of the domiciliary state, and such official or body has not petitioned for an accounting under said subsection within sixty days after the mailing of such notice, or (3) an accounting has been had under said subsection (c), a decree has been made upon such accounting and it appears that the executor or administrator has paid such sums and remitted such securities, if any, as he was required to pay or remit by such decree, or (4) it appears that letters testamentary or of administration have been issued by the domiciliary state and that no notice has been given under said subsection (c).

Application of foregoing provisions.

(e) Subsections (a) to (d), inclusive, shall apply to the estate of a non-resident decedent, only in case the laws of the domiciliary state contain a provision, of any nature or however expressed, whereby this commonwealth is given reasonable assurance, as finally determined by the commissioner, of the collection of its death taxes, interest and penalties from the estates of decedents

dying domiciled in this commonwealth, when such estates are administered in whole or in part by a probate court, or other court charged with the administration of estates of decedents, in such other state.

(f) The provisions of subsections (a) to (e), inclusive, shall be liberally construed in order to insure that the domiciliary state of any non-resident decedent whose estate is administered in this commonwealth shall receive any death taxes, together with interest and penalties thereon, due to it from the estate of such decedent. Liberal construction of provisions.

ARTICLE II

SCHEDULE B Schedule B.

LICENSE TAXES License taxes.

SEC. 100. *Taxes under this schedule.*

Taxes in this article or schedule shall be imposed as State license tax for the privilege of carrying on the business, exercising the privilege, or doing the act named, and nothing in this article shall be construed to relieve any person, firm, or corporation from the payment of the tax prescribed in this article or schedule. Taxes for privilege of doing business.

(a) If the business made taxable or the privilege to be exercised under this article or schedule is carried on at two or more separate places, a separate State license for each place or location of such business shall be required. Separate licenses for two or more places of business.

(b) Every State license issued under this article or schedule shall be for twelve months, shall expire on the thirty-first day of May of each year, and shall be for the full amount of tax prescribed: *Provided*, that where the tax is levied on an annual basis and the licensee begins such business or exercises such privilege after the first day of January and prior to the thirty-first day of May of each year, then such licensee shall be required to pay one-half of the tax prescribed other than the tax prescribed to be computed and levied upon a gross receipts and/or percentage basis for the conducting of such business or the exercising of such privilege to and including the thirty-first day of May, next following. Every county, city and town license issued under this article or schedule shall be for twelve months, and shall expire on the thirty-first day of May or thirtieth day of June of each year as the governing body of such county, city or town may determine: *Provided*, that where the licensee begins such business or exercises such privilege after the expiration of seven months of the current license year of such municipality, then such licensee shall be required to pay one-half of the tax prescribed other than the tax prescribed to be computed upon a gross receipts and/or percentage basis. Duration of license.

Prorating for half-year.

Duration of licenses of counties, cities and towns.

Prorating for half-year.

Conditions of State license.

(c) The State license thus obtained shall be and constitute a personal privilege to conduct the business named in the State license, shall not be transferable to any other person, firm, or corporation, and shall be construed to limit the person, firm, or corporation named in the license to conducting the business and exercising the privilege named in the State license to the county and/or city and location specified in the State license, unless otherwise provided in this article or schedule: *Provided,* that if the holder of a license under this schedule moves the business for which a license has been paid to another location, a new license may be issued to the licensee at a new location, for the balance of the license year, upon surrender of the original license for cancellation and the payment of a fee of five dollars ($5.00) for each license certificate reissued.

New license upon removal to new location.

Fee provided.

Taxes graduated in municipalities according to population.

Minimum tax unless within one mile of corporate limits.

(d) Whenever, in any section of this article or schedule, the tax is graduated with reference to the population of the city or town in which the business is to be conducted or the privilege exercised, the minimum tax provided in such section shall be applied to the same business or privilege when conducted or exercised outside of the municipality, unless such business is conducted or privilege exercised within one mile of the corporate limits of such municipality, in which event the same tax shall be imposed and collected as if the business conducted or the privilege exercised were inside of the corporate limits of such municipality: *Provided,* that with respect to taxes in this article, assessed on a population basis, the same rates shall apply to incorporated towns and unincorporated places or towns alike, with the best estimate of population available being used as a basis for determining the tax in unincorporated places or towns. The term "places or towns" means any unincorporated community, point or collection of people having a geographical name by which it may be generally known, and is so generally designated.

Unincorporated towns.

"Places or towns" defined.

Taxes payable to Commissioner.

Date due.

(e) All State taxes imposed by this article shall be paid to the Commissioner of Revenue, or to one of his deputies; shall be due and payable on or before the first day of June of each year, and after such date shall be deemed delinquent, and subject to all the remedies available and the penalties imposed for the payment of delinquent State license and privilege taxes: *Provided,* that if a person, firm, or corporation begins any business or the exercise of any privilege requiring a license under this article or schedule after the thirty-first day of May and prior to the thirty-first day of the following May of any year, then such person, firm, or corporation shall apply for and obtain a State license for conducting such business or exercising any such privilege in advance, and before the beginning of such business or the exercise of such privilege; and a failure to so apply and to obtain such State license shall be and con-

Application to begin business after start of license year.

Penalty for failure to obtain license.

stitute a delinquent payment of the State license tax due, and such person, firm, or corporation shall be subject to the remedies available and penalties imposed for the payment of such delinquent taxes.

Application of 1939 schedule after June 1st.

(f) The taxes imposed and the rates specified in this article or schedule shall apply to the subjects taxed on and after the first day of June, one thousand nine hundred thirty-nine, and prior to said date the taxes imposed and the rates specified in the Revenue Act of one thousand nine hundred thirty-seven shall apply.

Innocent purchasers of unlicensed businesses protected.

(g) It shall be the duty of a grantee, transferee, or purchaser of any business or property subject to the State license taxes imposed in this article to make diligent inquiry as to whether the State license tax has been paid, but when such business or property has been granted, sold, transferred, or conveyed to an innocent purchaser for value and without notice that the vendor owed or is liable for any of the State license taxes imposed under this article, such property, while in the possession of such innocent purchaser, shall not be subject to any lien for such State license taxes.

Collection of license taxes due local units.

(h) All county or municipal taxes levied by the Board of County Commissioners of any county, or by the Board of Aldermen or other governing body of any municipality within this State, under the authority conferred in this Act, shall be collected by the Sheriff or tax collector of such county and by the tax collector of such city, and the county or municipal license shall be issued by such officer.

False statements made a misdemeanor.

(i) Any person, firm, or corporation who shall willfully make any false statement in an application for a license under any section of this article or schedule shall be guilty of a misdemeanor, and upon conviction shall be fined and/or imprisoned in the discretion of the court, which fine shall not be less than the amount of tax specified under such section, and shall be in addition to the amount of such tax.

License taxes for certain seasonal businesses.

(j) Wherever the business taxed in Sections one hundred twenty-six and one-half, one hundred twenty-seven, one hundred forty-four, and/or one hundred forty-nine of this Act is of a seasonal character at summer or winter resorts, license may be issued for such seasonal business at one-half of the annual license tax for the four months period from June first to October first in summer resorts and from December first to April first in winter resorts.

SEC. 102. *Amusement parks.*

Amusement parks.

Every person, firm, or corporation engaged in the business of operating a park, open to the public as a place of amuse-

ment, and in which there may be either a bowling alley, trained animal show, penny or nickel machine for exhibiting pictures, theatrical performance, or similar entertainment, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of conducting such amusement park, and shall pay for such license the following tax:

Tax according to number of months operated.

State license for two months	$200.00
State license for four months	400.00
State license for eight months	600.00
State license for twelve months	800.00

Bathing beaches excepted.

This section shall not apply to bathing beaches which are not operated for more than four months each year.

Inapplicable to circuses, carnivals, etc.

(a) The licensee shall have the privilege of doing any or all of the things set out in this section; but the operation of a carnival, circus, or a show of any kind that moves from place to place shall not be allowed under the State License provided for in this section.

No county tax.

(b) Counties shall not levy a license tax on the business taxed under this section.

Traveling theatrical companies.

SEC. 103. *Amusements—traveling theatrical companies, etc.*

Defined.

Every person, firm, or corporation engaged in the business of a traveling theatrical, traveling moving picture, and/or traveling vaudeville company, giving exhibitions or performances in any hall, tent, or other place not licensed under Sections one hundred and two or one hundred and five of this article, whether on account of municipal ownership or otherwise, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business, and pay for such license a tax of twenty-five dollars ($25.00) for each day or part of a day's exhibits or performances: *Provided,* that

Tax of $25.00 per day.

Exceptions.

Artists.

(a) Artists exhibiting paintings or statuary work of their own hands shall only pay two dollars ($2.00) for such State license.

Amusements charging admission of 50c or less.

(b) Such places of amusement as do not charge more than a total of fifty cents (50c) for admission at the door, including a reserved seat, and shall perform or exhibit continuously in any given place as much as one week, shall be required to pay for such State license a tax of twenty-five dollars ($25.00) per week.

Liability of owner of place of amusement.

(c) The owner of the hall, tent, or other place where such amusements are exhibited or performances held shall be liable for the tax.

(d) In lieu of the State license tax, hereinbefore provided for in this section, such amusement companies, consisting of not more than ten performers, may apply for an annual State-wide license, and the same may be issued by the Commissioner of Revenue for the sum of three hundred dollars ($300.00), paid in advance, prior to the first exhibition in the State, shall be valid in any county of this State, and shall be in full payment of all State license taxes imposed in this section. Annual tax on companies with not more than ten performers.

(e) Any traveling organization which exhibits animals or conducts side shows in connection with its exhibitions or performances shall not be taxed under this section, but shall be taxed as herein otherwise provided. Animal exhibits and sideshows.

(f) The owner, manager, or proprietor of any such amusements described in this section shall apply in advance to the Commissioner of Revenue for a State license for each county in which a performance is to be given. Applications to be made in advance.

That upon all performances taxable under this section there is levied, in addition to the license tax levied in this section, a tax upon the gross receipts of such business at the rate of tax levied in Article V, Schedule E, of this Act upon retail sales of merchandise. The license tax herein levied shall be treated as an advance payment of the tax upon gross receipts herein levied, and the license tax shall be applied as a credit upon or advance payment of the gross receipts tax. The Commissioner of Revenue may adopt such regulations as may be necessary to effectuate the provisions of this section and shall prescribe the form and character of reports to be made, and shall have such authority of supervision as may be necessary to effectuate the purposes of this Act. Gross receipts tax additional. License tax as advance payment on gross receipts tax. Regulations. Reports.

(g) Counties, cities and towns may levy a license tax not in excess of the license tax levied by the State. Local units may tax.

(h) Where the taxpayer elects to pay an annual State-wide license in the sum of three hundred dollars ($300.00) in advance, as provided for in Subsection (d) of this section, counties, cities and towns may each levy a license tax not in excess of ten dollars ($10.00) per week, provided such places of amusement do not charge more than a total of fifty cents (50c) for admission at the door, as provided for in Subsection (b) of this section. Limitation on taxation by local units.

SEC. 104. *Amusements—manufacturing, selling, leasing, or distributing moving picture films or checking attendance at moving picture shows.* Distributors of moving picture films.

Every person, firm, or corporation engaged in the business of manufacturing, selling, or leasing, furnishing, and/or distributing films to be used in moving pictures within this State

shall apply for and obtain from the Commissioner of Revenue a State-wide license for the privilege of engaging in such business in this State, and shall pay for such license a tax of six hundred and twenty-five dollars ($625.00): *Provided*, that persons, firms, or corporations engaged exclusively in the business of selling, leasing or furnishing and/or distributing films for use in schools, public or private, and other institutions of learning, in this State shall pay a tax of twenty-five dollars ($25.00).

Amount of tax.

Tax of distributors of film for use in schools and educational institutions.

Attendance checking.

Any person, firm, or corporation engaged under contract or for compensation in the business of checking the attendance of any moving picture or show for the purpose of ascertaining attendance or amount of admission receipts at any theatre or theatres shall apply for and obtain from the Commissioner of Revenue a State-wide license for the privilege of engaging in such business in this State, and shall pay for such license an annual tax of two hundred and fifty dollars ($250.00).

Amount of tax.

Local units may not tax.

Counties, cities, and towns shall not levy a license tax on the business taxed under this section.

SEC. 105. *Amusements—moving pictures or vaudeville shows —admissions.*

Moving pictures and vaudeville shows.

Every person, firm, or corporation engaged in the business of operating a moving picture show or place where vaudeville exhibitions or performances are given or operating a theatre or opera house where public exhibitions or performances are given for compensation shall apply for and obtain in advance from the Commissioner of Revenue a State license for the privilege of engaging in such business, and shall pay for such State license for each room, hall, or tent used the following base tax:

Tax graduated according to population.

In cities or towns of less than 1,500 population	$ 25.00
In cities or towns of 1,500 and less than 3,000 population	62.50
In cities or town of 3,000 and less than 5,000 population	125.00
In cities or towns of 5,000 and less than 10,000 population	175.00
In cities or towns of 10,000 and less than 15,000 population	275.00
In cities or towns of 15,000 and less than 25,000 population	375.00
In cities or towns of 25,000 population or over	425.00

Tax where operated more than two miles from business center of city.

(a) For any moving picture show operated more than two miles from the business center of any city having a population of twenty-five thousand or over (for the purpose of this provision, the term "business center" to be defined as the intersection of the two principal business streets of the city), the base tax levied shall be two hundred dollars ($200.00).

In addition to the base tax levied in the above schedule of this section, such person, firm, or corporation shall pay an additional tax upon the gross receipts of such business at the rate of tax upon all such gross receipts levied in Article V, Schedule E, of this Act upon retail sales of merchandise. Reports shall be made to the Commissioner of Revenue in such form as he may prescribe within the first ten days of each month, covering all such gross receipts for the previous months and the additional tax herein levied shall be paid monthly at the time such reports are made. The annual license tax herein levied shall be treated as an advance payment of the tax upon gross receipts herein levied, and the annual license tax shall be applied as a credit upon or advance payment of the gross receipts tax. *Provided,* if the tax upon admissions herein levied is not added to the admission price as a separate charge to any exhibition of motion pictures shown under percentage royalty contracts, the gross receipts, with reference to such royalty contracts, shall be deemed to be the gross receipts from admissions after the percentage tax upon gross receipts shall have been paid or deducted.

Gross receipts tax additional.

Reports to Commissioner.

License tax as advance payment on gross receipts tax.

Determination of gross receipts.

(b) Upon any and all other forms of entertainment and amusement not otherwise taxed or specifically exempted in this Act, for which an admission is charged, every person, firm, or corporation engaged in such business shall pay an annual license tax for each room, hall, or tent where such admission charges are made graduated according to population, as follows:

Other entertainments not herein specifically taxed or exempted.

In cities or towns of less than 1,500 population	$10.00
In cities or towns of 1,500 and less than 3,000 population	15.00
In cities or towns of 3,000 and less than 5,000 population	20.00
In cities or towns of 5,000 and less than 10,000 population	25.00
In cities or towns of 10,000 and less than 15,000 population	30.00
In cities or towns of 15,000 and less than 25,000 population	40.00
In cities or towns of 25,000 population or over	50.00

Tax graduated according to population.

In addition to the license tax levied in the above schedule of this subsection, such person, firm, or corporation shall pay an additional tax upon the gross receipts of such business at the rate of tax levied in Article V, Schedule E of this Act upon retail sales of merchandise, the additional tax upon gross receipts to be levied and collected as provided in this section for motion picture shows, or in accordance with such regulations of payments as may be made by the Commissioner of Revenue. The annual license tax herein levied shall be treated as an advance payment of the tax upon gross receipts herein levied

Gross receipts tax additional.

License tax as advance payment on gross receipts tax.

and the annual license tax shall be applied as a credit upon or advance payment of the gross receipts tax.

Tax on athletic contests.

Provided, that athletic contests of all kinds, high school and elementary school contests, for which an admission is charged in excess of fifty cents (50c), including football, baseball, basketball, dances, wrestling, and boxing contests, shall pay an annual license tax of five dollars ($5.00), for each location where such charges are made, and an additional charge upon the gross receipts at the rate of tax levied in Article V, Schedule E, of this Act upon retail sales of merchandise, the additional tax upon gross receipts to be levied and collected as provided in this section for motion picture shows, or in accordance with such regulations of payments as may be made by the Commissioner of Revenue. The tax levied in this last portion of Subsection (b), shall apply to all privately owned toll bridges, including all charges made for all vehicles, freight and passenger, and the minimum charge of fifty cents (50c), for admission shall not apply to bridge tolls.

Tax of $5.00 plus gross receipts tax.

Collection of tax.

Toll bridges.

Taxing by local units regulated.

(c) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one-half the base tax levied in this section.

Circuses, etc.

SEC. 106. *Amusements—circuses, menageries, wild west, dog and/or pony shows, etc.*

Defined.

Every person, firm, or corporation engaged in the business of exhibiting performances, such as a circus, menagerie, wild west show, dog and/or pony show, or any other show, exhibition or performance similar thereto, or not taxed in other sections of this article, shall apply for and obtain a State license from the Commissioner of Revenue for the privilege of engaging in such business, and pay for such license the following tax for each day or part of a day:

Tax based on number of railroad cars used in transporting.

(a) Such shows and/or exhibitions traveling on railroads and requiring transportation of:

Not more than two cars	$ 30.00
Three to five cars, inclusive	45.00
Six to ten cars, inclusive	90.00
Eleven to twenty cars, inclusive	125.00
Twenty-one to thirty cars, inclusive	175.00
Thirty-one to fifty cars, inclusive	250.00
Over fifty cars	300.00

Shows using motor or other vehicles, for transportation.

(b) Such shows and/or exhibitions traveling by automobiles, trucks, or other vehicles, other than railroad cars, and requiring transportation by:

Not over two vehicles	$ 7.50
Three to five vehicles	10.00
Six to ten vehicles	15.00
Eleven to twenty vehicles	25.00
Twenty-one to thirty vehicles	45.00
Thirty-one to fifty vehicles	60.00
Fifty-one to seventy-five vehicles	75.00
Seventy-six to one hundred vehicles	100.00
Over one hundred vehicles, per vehicle in excess thereof	5.00

Tax based on number of vehicles.

It is the intent of this subsection that every vehicle used in transporting circus property or personnel, whether owned by the circus or by others, shall be counted in computing the tax.

Every vehicle counted.

(c) Every person, firm, or corporation by whom any show or exhibition taxed under this section is owned or controlled shall file with the Commissioner of Revenue, not less than five days before entering this State for the purpose of such exhibitions or performances therein, a statement, under oath, setting out in detail such information as may be required by the Commissioner of Revenue covering the places in the State where exhibitions or performances are to be given, the character of the exhibitions, the mode of travel, the number of cars or other conveyances used in transferring such shows, and such other and further information as may be required. Upon receipt of such statement, the Commissioner of Revenue shall fix and determine the amount of State license tax with which such person, firm, or corporation is chargeable, shall endorse his findings upon such statement, and shall transmit a copy of such statement and findings to each such person, firm, or corporation to be charged, to the Sheriff or tax collector of each county in which exhibitions or performances are to be given, and to the division deputy of the Commissioner of Revenue, with full and particular instructions as to the State license tax to be paid. Before giving any of the exhibitions or performances provided for in such statement, the person, firm, or corporation making such statement shall pay the Commissioner of Revenue the tax so fixed and determined. If one or more of such exhibitions or performances included in such statement and for which the tax has been paid shall be canceled, the Commissioner of Revenue may, upon proper application made to him, refund the tax for such canceled exhibitions or performances. Every such person, firm, or corporation shall give to the Commissioner of Revenue a notice of not less than five days before giving any of such exhibitions or performances in each county.

Verified statement filed with Commissioner before entering State.

Contents.

Computation of tax.

Duties of county officials in collection.

Payment of tax before exhibition.

Refund for cancelled engagements.

Notice of exhibition to be given.

(d) The Sheriff of each county in which such exhibitions or performances are advertised to be exhibited shall promptly communicate such information to the Commissioner of Reve-

Sheriffs to notify Commissioner of scheduled performances.

nue; and if the statement required in this section has not been filed as provided herein, or not filed in time for certified copies thereof, with proper instructions, to be transmitted to the Sheriffs of the several counties and the division deputy commissioner, the Commissioner of Revenue shall cause his division deputy to attend at one or more points in the State where such exhibitions or performances are advertised or expected to exhibit, for the purpose of securing such statement prescribed in this section, of fixing and determining the amount of State license tax with which such person, firm, or corporation is taxable, and to collect such tax or give instructions for the collection of such tax.

Attendance and duties of deputies of Commissioner.

Additional tax where exhibition conflicts with agricultural fairs.

(e) Every such person, firm, or corporation by whom or which any such exhibition or performance described in this section is given in any county, city or town, or within five miles thereof, wherein is held an annual agricultural fair, during the week of such annual agricultural fair, shall pay a State license of one thousand dollars ($1,000.00) for each exhibition or performance in addition to the license tax first levied in this section, to be assessed and collected by the Commissioner of Revenue or his duly authorized deputy.

No exemption for charitable, benevolent and educational performances.

(f) The provisions of this section, or any other section of this Act, shall not be construed to allow without the payment of the tax imposed in this section, any exhibition or performance described in this section for charitable, benevolent, educational, or any other purpose whatsoever, by any person, firm, or corporation who is engaged in giving such exhibitions or performances, no matter what terms of contract may be entered into or under what auspices such exhibitions or performances are given. It being the intent and purpose of this section that every person, firm, or corporation who or which is engaged in the business of giving such exhibitions or performances, whether a part of all of the proceeds are for charitable, benevolent, educational, or other purposes or not, shall pay the State license tax imposed in this section.

Intent to tax all performances and exhibitions.

Penalty for failure to make reports or pay tax.

(g) Every such person, firm, or corporation who shall give any such exhibitions or performances mentioned in this section within this State, before the statement provided for has been filed with the Commissioner of Revenue, or before the State license tax has been paid, or which shall, after the filing of such statement, give any such exhibitions or performances taxable at a higher rate than the exhibition or performance authorized by the Commissioner of Revenue upon the statement filed, shall pay a State license tax of fifty per cent (50%) greater than the tax hereinbefore prescribed, to be assessed and collected either by the Commissioner of Revnue or by his division deputy.

Amount of penalty.

That upon all performances taxable under this section there is levied, in addition to the license tax levied in this section, a tax upon the gross receipts of such business at the rate of tax levied in Article V, Schedule E, of this Act upon retail sales of merchandise. The license tax herein levied shall be treated as an advance payment of the tax upon gross receipts herein levied, and the license tax shall be applied as a credit upon or advance payment of the gross receipts tax. The Commissioner of Revenue may adopt such regulations as may be necessary to effectuate the provisions of this section and shall prescribe the form and character of reports to be made, and shall have such authority of supervision as may be necessary to effectuate the purposes of this Act.

Gross receipts tax additional.

License tax treated as advance payment upon gross receipts tax.

Regulations.

Reports.

(h) In lieu of the tax levied in Section one hundred fifty-one of this Act, each circus, or other form of amusement taxed under this section, advertising by means of outdoor advertising displays, a bill posting or as otherwise defined in Section one hundred fifty-one, shall pay a tax of one hundred dollars ($100.00) for a State-wide license for the privilege of advertising in this manner, said tax to be in addition to the other taxes levied in this section.

Additional tax for outdoor advertising of exhibitions.

(i) Counties, cities, and towns may levy a license tax on the business taxed under this section not in excess of one-half of the license tax levied by the State, but shall not levy a parade tax or a tax under Subsection (h) of this section.

Local units may tax.

SEC. 107. *Amusements—carnival companies, etc.*

Carnival companies, etc.

Every person, firm, or corporation engaged in the business of a carnival company or a show of like kind, moving picture and vaudeville shows, museums and menageries, merry-go-rounds, ferris wheels, riding devices, and other like amusements, and enterprises, conducted for profit, under the same general management, or an aggregate of shows, amusements, eating places, riding devices, or any of them operating together on the same lot or contiguous lots or streets, traveling from place to place, whether owned and actually operated by separate persons, firms, or corporations or not, filling week-stand engagements, or giving week-stand exhibitions, under canvas or not, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business or amusement, and shall pay for such license for each week, or part of a week, a tax based according to the population of the city or town in which such carnival is showing as follows:

Defined.

In cities or towns of less than 2,500 population	$100.00
In cities or towns of 2,500 population and less than 10,000	200.00
In cities or towns of more than 10,000 population	300.00

Tax graduated according to population.

Operation within 5 miles of city deemed within city limits.

Provided that any carnival operating within a radius of five miles of any city shall pay the same tax as if they were actually showing within the city limits of said town. *Provided further* that if such a carnival operates over five miles from any city or town such a carnival shall be liable for a tax of one hundred dollars ($100.00) per week or part of a week.

Tax for operation outside of city.

Tax on riding devices only.

Provided, that when a person, firm, or corporation exhibits only riding devices which are not a part of, not used in connection with any carnival company the tax shall be ten dollars ($10.00) per week for each such riding device, and no additional tax shall be levied by counties, cities, and towns under this proviso.

No tax by local units.

Local laws unaffected.

(a) This section shall not repeal any local Act prohibiting any of the shows, exhibitions, or performances mentioned in this section, or to limit the authority of the Board of County Commissioners of any county, or the Board of Aldermen or other governing body of any city or town, in prohibiting such shows, exhibitions, or performances.

Refund where local laws prohibit exhibitions.

If the Commissioner of Revenue shall issue a State license for any such show, exhibition, or performance in any county or municipality having a local statute prohibiting the same, then the said State license shall not authorize such show, exhibition, or performance to be held in such county or municipality, but the Commissioner of Revenue shall refund, upon proper application, the tax paid for such State license.

Charitable, benevolent and educational exhibitions not relieved.

(b) No person, firm, or corporation, nor any aggregation of same, giving such shows, exhibitions, or performances, shall be relieved from the payment of the tax levied in this section, regardless of whether or not the State derives a benefit from same. Nor shall any carnival operating or giving performances or exhibitions, in connection with any fair in North Carolina, be relieved from the payment of tax levied in this section.

Intent of Act to tax all exhibitions.

It is the intent and purpose of this section that every person, firm, or corporation, or aggregation of same which is engaged in the giving of such shows, exhibitions, performances, or amusements, whether the whole or a part of the proceeds are for charitable, benevolent, educational, or other purposes whatsoever, shall pay the State license taxes provided for in this section.

Exhibitions prohibited within 15 days prior to dates of agricultural fairs.

It is not the purpose of this Act to discourage agricultural fairs in the State, and to further this cause, no carnival company will be allowed to play a "Still Date" in any county where there is a regularly advertised agricultural fair, fifteen days prior to the dates of said fair. An agricultural fair shall be construed as meaning one that has operated at least one year prior to the passage of this Act.

That upon all performances taxable under this section there is levied, in addition to the license tax levied in this section, a tax upon the gross receipts of such business at the rate of tax levied in Article V, Schedule E, of this Act upon retail sales of merchandise. The license tax herein levied shall be treated as an advance payment of the tax upon the gross receipts herein levied, and the license tax shall be applied as a credit upon or advance payment of the gross receipts tax. The Commissioner of Revenue may adopt such regulations as may be necessary to effectuate the provisions of this section and shall prescribe the form and character of reports to be made, and shall have such authority or supervision as may be necessary to effectuate the purposes of this Act.

Gross receipts tax additional.

License tax treated as advance payment.

Regulations.

Reports.

Nothing herein contained shall prevent American Legion Posts in North Carolina from holding fairs or tobacco festivals on any dates which they may select, provided said fairs and festivals have heretofore been held as annual events.

Exception as to annual events by American Legion Posts.

(c) Counties, cities and towns may levy a license tax on the business taxed hereunder not in excess of one-half of that levied by the State.

Local units may tax.

SEC. 108. *Amusements — certain exhibitions, performances, and entertainments exempt from license tax.*

All exhibitions, performances, and entertainments, except as in this article expressly mentioned as not exempt, produced by local talent exclusively, and for the benefit of religious, charitable, benevolent, or educational purposes, and where no compensation is paid to such local talent shall be exempt from the State license tax.

Benefit performances by unpaid local talent exempt.

SEC. 109. *Attorneys at Law and other professionals.*

Attorneys and other professions.

Every practicing attorney at law, practicing physician, veterinary, surgeon, osteopath, chiropractor, chiropodist, dentist, oculist, optician, optometrist, any person practicing any professional art of healing for a fee or reward, civil engineer, electrical engineer, mining engineer, mechanical engineer, architect and landscape architect, photographer, canvasser for any photographer, agent of a photographer in transmitting pictures or photographs to be copied, enlarged or colored (including all persons enumerated in this section employed by the State, county, municipality, a corporation, firm or individual), and every person, whether acting as an individual, as a member of a partnership, or as an officer and/or agent of a corporation, who is engaged in the business of selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, or who is engaged in the business of leasing or offering to lease, renting or offering to rent, or of

Professions enumerated.

collecting any rents as agent for another for compensation, or who is engaged in the business of soliciting and/or negotiating loans on real estate as agent for another for a commission, brokerage and/or other compensation, shall apply for and obtain from the Commissioner of Revenue a State-wide license for the privilege of engaging in such business or profession, or the doing of the act named, and shall pay for such license twenty-five dollars ($25.00): *Provided*, that no professional man or woman shall be required to pay a privilege tax after he or she has arrived at the age of seventy-five years old.

Amount of tax.

Privilege tax exemption.

Accountants and employees.

Every person engaged in the public practice of accounting as a principal, or as a manager of the business of public accountant, shall pay for such license twenty-five dollars ($25.00), and in addition shall pay a license of twelve and fifty one-hundredths dollars ($12.50) for each person employed who is engaged in the capacity of supervising or handling the work of auditing, devising or installing systems of accounts.

Morticians and embalmers.

Every licensed mortician or embalmer shall in like manner apply for and obtain from the Commissioner of Revenue a State-wide license for practicing his profession, whether for himself or in the employ of another of ten dollars ($10.00).

Personal privilege license only.

Licenses issued under this section are issued as personal privilege licenses and shall not be issued in the name of a firm or corporation: *Provided*, that a licensed photographer having a located place of business in this State, shall be liable for a license tax on each agent or solicitor, employed by him for soliciting business.

Photographer agent licenses.

One-half tax where receipts do not exceed $1,000.

(a) Only one-half of the tax levied in this section shall be collected from those persons whose gross receipts from the business or profession for the preceding year did not exceed one thousand dollars ($1,000.00).

(b) License revocable for failure to pay tax.

Superior Court judges authorized to revoke licenses for failure to pay tax.

Whenever it shall be made to appear to any judge of the Superior Court that any person practicing any profession for which the payment of a license tax is required by this section has failed, or fails, to pay the professional tax levied in this section, and execution has been issued for the same by the Commissioner of Revenue and returned by the proper officer "no property to be found," or returned for other cause without payment of the tax, it shall be the duty of the judge presiding in the Superior Court of the county in which such person resides, upon presentation therefor, to cause the clerk of said court to issue a rule requiring such person to show cause by the next term of court why such person should not be deprived of license to practice such profession for failure to pay such

Rule to show cause.

professional tax. Such rule shall be served by the Sheriff upon said person twenty days before the next term of the court, and if at the return term of court such person fails to show sufficient cause, the said judge may enter a judgment suspending the professional license of such person until all such tax as may be due shall have been paid, and such order of suspension shall be binding upon all courts, boards and commissions having authority of law in this State with respect to the granting or continuing of license to practice any such profession.

Service by Sheriff.

Judgment.

(c) Counties, cities, or towns shall not levy any license tax on the business or professions taxed under this section; and the State-wide license herein provided for shall privilege the licensee to engage in such business or profession in every county, city, or town in this State, except the same shall not apply to photographers, canvassers of any photographers, agents of a photographer in transmitting pictures or photographs to be copied, enlarged, or colored, as set out in the first paragraph of this section, and counties, cities, or towns may levy a tax not in excess of that levied by the State.

Local units may not tax.

Tax on photographers.

(d) *Provided* that photographers who have paid the tax prescribed in this article and the tax levied hereunder by the county, city or town, in which is located their regular place of business, shall not be subject to the levy of an additional tax by a county, city, or town, in which such photographer may be temporarily engaged in photographing only inanimate objects for sale promotional or advertising purposes.

Exception as to certain temporary photography.

SEC. 110. *Detectives.*

Detectives.

Every person, whether acting as an individual, as a member of a partnership, or as an officer and/or agent of a corporation, who is engaged in business as a detective or what is ordinarily known as "secret service work," or who is engaged in the business of soliciting such business, shall apply for and obtain from the Commissioner of Revenue a State-wide license for the privilege of engaging in such business, and shall pay for such license a tax of twenty-five dollars ($25.00): *Provided,* any such person regularly employed by United States Government, any state or political subdivision of any state shall not be required to pay license herein provided for.

Defined.

Amount of tax.

Government men excepted.

SEC. 111. *Real Estate Auction Sales.*

Real estate auction sales.

(a) Every person, firm, or corporation engaged in the business of conducting auction sales of real estate for profit or compensation shall apply for and obtain from the Commissioner of Revenue a State-wide license for the privilege of engaging in such business in this State, and shall pay for such license a tax of two hundred and fifty dollars ($250.00).

Amount of tax.

Tax for conducting sales in one county only.

Provided, that any person, firm, or corporation engaged in the business of conducting auction sales in one county only in this State, shall be liable for a license tax in the amount of seventy-five dollars ($75.00).

Foreclosures excepted.

(b) This section shall not apply to sales for foreclosure of liens or sales made by order of court.

Local units may tax.

(c) Counties, cities, and towns may levy a tax on the business taxed under this section not in excess of twelve and fifty one-hundredths dollars ($12.50) for each sale conducted in the county, city, or town: *Provided*, that the total tax levied by any county, city, or town on said business during any year shall not exceed twenty-five dollars ($25.00).

Coal and coke dealers.

SEC. 112. *Coal and Coke Dealers.*

Wholesale dealers defined.

Amount of tax.

(a) Every person, firm, or corporation, either as agent or principal, engaged in and conducting the business of selling and/or delivering coal or coke in carload lots, or in greater quantities, shall be deemed a wholesale dealer, and shall apply for and procure from the Revenue Commissioner a State license and pay for such license the sum of seventy-five dollars ($75.00): *Provided*, that if such wholesale dealer shall also sell and/or deliver coal or coke in less than carload lots, he shall not be subject to the retailer's license tax provided in this section.

Restriction.

Retailers.

(b) Every person, firm, or corporation engaged in and conducting the business of selling and/or delivering coal or coke at retail shall apply for and procure from the Commissioner of Revenue a State license, and shall pay for such license for each city or town in which such coal or coke is sold or delivered, as follows:

Tax graduated according to population.

In cities or towns of less than 2,500 population	$10.00
In cities or towns of 2,500 and less than 5,000 population	15.00
In cities or towns of 5,000 and less than 10,000 population	25.00
In cities or towns of 10,000 and less than 25,000 population	50.00
In cities or towns of 25,000 and over	75.00

Tax on small quantity dealers.

Dealers or peddlers in coal who sell in quantities of not more than one hundred (100) pounds shall pay a State license tax of five dollars ($5.00).

No county tax.

Cities and towns may tax.

(c) No county shall levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of that levied by the State.

(d) Any person, firm, or corporation soliciting orders for pool cars of coal to be distributed without profit shall be subject to the license tax. Solicitors for pool cars taxable.

SEC. 113. *Collecting Agencies.* Collecting agencies.

Every person, firm, or corporation engaged in the business of collecting, for a profit, claims, accounts, bills, notes, or other money obligations for others, and of rendering an account for same, shall be deemed a collection agency, and shall apply for and receive from the Commissioner of Revenue a State license for the privilege of engaging in such business, and pay for such license a tax of fifty dollars ($50.00). Defined. Amount of tax.

(a) This section shall not apply to a regularly licensed practicing attorney at law. Attorneys excepted.

(b) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of that levied by the State. No county tax. Cities and towns may tax.

SEC. 114. *Undertakers and retail dealers in coffins.* Undertakers and retail coffin dealers.

Every person, firm, or corporation engaged in the business of burying the dead, or in the retail sale of coffins, shall apply for and procure from the Revenue Commissioner a State license for transacting such business within this State, and shall pay for such license the following tax:

In cities or towns of less than 500 population	$ 10.00
In cities or towns of 500 and less than 5,000 population	25.00
In cities or towns of 5,000 and less than 10,000 population	40.00
In cities or towns of 10,000 and less than 15,000 population	50.00
In cities or towns of 15,000 and less than 25,000 population	75.00
In cities or towns of 25,000 population or over	100.00

Tax graduated according to population.

(a) This section shall not apply to a cabinet-maker (who is not an undertaker) who makes coffins to order. Cabinet-makers excepted.

No county shall levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of that levied by the State. No county tax. Cities and towns may tax.

SEC. 115. *Dealers in Horses and/or Mules.* Horse and mule dealers.

Every person, firm, or corporation engaged in the business of purchasing for the purpose of resale, either at wholesale or retail, horses and/or mules shall apply for and procure from the Commissioner of Revenue a State license for the privilege of en-

Separate license for each place of business.

gaging in such business in this State and shall pay for such license an annual tax for each location where such business is carried on as follows:

Tax graduated according to carloads purchased.

Where not more than one carload of horses and/or mules is purchased for the purpose of resale ..... $ 25.00
Where more than one carload and not more than two carloads of horses and/or mules are purchased for the purpose of resale ..... $ 50.00
Where more than two carloads of horses and/or mules are purchased for the purpose of resale 100.00

Number of animals per carload.

Determination of amount due.

For the purpose of calculating the amount of tax due under the above schedule, a carload of horses and/or mules shall be twenty-five (25) and purchases for the preceding license tax year shall be used as a medium for arriving at the amount of tax due for the ensuing year: *Provided, however,* that if during the current license year horses and/or mules are purchased for the purpose of resale in such quantities that would establish liability for a greater tax than that previously paid, it shall be immediately remitted to the Commissioner of Revenue with the license which has already been issued in order that it may be canceled and a corrected license issued.

Additional tax on public auction dealers.

In addition to the above license, every person, firm, or corporation engaged in the business of purchasing for the purpose of resale and/or selling horses and/or mules at public auction, either on his or its own behalf or for any other person, whether a commission or fee is or is not charged, shall apply for and procure from the Commissioner of Revenue a State license for each place of auction and shall pay for such license an annual tax of one hundred dollars ($100.00).

Additional tax on transient vendors.

In addition to the above license, every transient vendor of horses and/or mules who has no permanent or established place of business in this State shall apply for and procure from the Commissioner of Revenue a State license for each county in which horses and/or mules are sold and shall pay for such license an annual tax of three hundred dollars ($300.00).

Additional tax of $3.00 per head on all purchases for resale.

"Purchase" defined.

Exceptions.

(a) In addition to the annual licenses levied in this section, every person, firm, or corporation, engaged in the business of purchasing for the purpose of resale, either at wholesale or retail, horses and/or mules shall pay a tax of three dollars ($3.00) per head on all such horses and/or mules purchased for the purpose of resale. "Purchase" shall be taken to mean and shall include all horses and/or mules acquired or received as a result of outright purchase or on consignment, account or otherwise for resale, either at wholesale or retail: *Provided, however,* that "purchases" shall not include the acquisition of horses and/or mules which are acquired or received as a result of an allowance for credit for horses and/or mules taken in part payment on horses

and/or mules subject to the tax imposed in this section nor shall it include horses and/or mules which have been repossessed as a result of nonpayment of the original sales or purchase price. "Purchases" shall include all horses and/or mules acquired for the purpose of resale, either at wholesale or retail, whether such horses and/or mules are shipped into this State by railroad or brought in otherwise.

"Purchases" defined.

The original or first dealer or consignee, purchasing or receiving horses and/or mules in this State, shall be primarily liable for payment of the additional per-head tax levied in this section. Horse and/or mule auctioneers, engaged in the business of purchasing, acquiring or receiving on consigment, account or otherwise, either as principal or agent, horses and/or mules from out-of-state dealers or other persons and selling same at either private or public auction, shall be primarily liable for payment of the additional per-head tax levied in this section. In order to avoid double taxation, dealers purchasing or acquiring horses and/or mules from another established dealer located within this State may be relieved of reporting the additional per-head tax on such horses and/or mules acquired from another dealer located within this State, provided an official receipt or statement from the Commissioner of Revenue or his duly authorized agents is produced, showing that the additional per-head tax levied in this section has been paid.

Original dealer or consignee liable for additional per-head tax.

Liability of auctioneers for additional per-head tax.

Subsequent purchasers relieved from per-head tax upon producing official receipt.

(b) The additional per-head tax levied in this section on purchases of horses and/or mules purchased for the purpose of resale, either at wholesale or retail, shall be due and payable immediately upon receipt of such horses and/or mules within this State. The Commissioner of Revenue may, however, in his discretion, where he thinks circumstances justify it, permit licensed and established dealers to file monthly reports, which reports shall be due to be filed on or before the fifteenth (15th) of each month for all purchases during the preceding month, and such report when filed shall be accompanied by a remittance for the amount of tax shown to be due. Reports shall be filed in such form and in such manner as may be prescribed by the Commissioner of Revenue, and failure to file the report herein prescribed and pay the tax as shown to be due thereon shall subject such dealer to a penalty of five per cent (5%) of the amount of tax due for each month or fraction thereof that such report may be delinquent.

Additional per-head tax due upon receipt of horses and mules within State.

Commissioner may permit monthly reports by established dealers.

Form of report.

Penalty for failure to file report.

(c) Every person, firm, or corporation engaged in the business of purchasing for the purpose of resale, either at wholesale or retail, horses and/or mules shall keep a full, true and accurate record of all purchases and sales, including purchase invoices and freight bills covering such purchases and sales of all horses and/or mules until such purchases and sales, including purchase invoices and freight bills, have been checked by a duly authorized agent of the Commissioner of Revenue. Failure to comply with

Records required.

Checked by deputy.

Penalty for failure to keep records.

the provisions of this section in this respect shall be prima facie evidence of attempting to evade the additional taxes levied in this section and shall subject such dealer, in addition to all other penalties imposed by this Act, to the additional per-head tax on all purchases and/or sales from whatever source such horses and/or mules are acquired or received, and it shall be the duty of the Commissioner of Revenue or his duly authorized agents to assess the additional tax upon an estimation of purchases and/or sales from the best information obtainable.

Determination of tax by Commissioner.

Commissioner may require surety bond to guarantee payment of tax.

(d) As a condition to the issuance or the continuance of the annual license levied in this section, and in order to secure the payment of the additional per-head tax levied on purchases and/or sales in this section, the Commissioner of Revenue may in his discretion, when it appears reasonably necessary therefor, require any dealer in horses and/or mules, applying for a license under this section, to post a surety bond or other adequate security sufficient to guarantee and secure the payment of any tax due under this section.

Failure to pay tax made misdemeanor.

(e) Any person, firm, or corporation, required to procure from the Commissioner of Revenue a license under this section, who shall purchase and sell or offer for sale by principal or agent any horses and/or mules without first having obtained such license, or shall fail, neglect or refuse to file any report and pay the additional taxes levied in this section when due and payable, shall in addition to the other penalties imposed by this Act, be deemed guilty of a misdemeanor and upon conviction shall be fined not to exceed one hundred dollars ($100.00) and/or imprisoned not less than thirty (30) days within the discretion of the court.

Local units may tax.

(f) Counties, cities and towns may levy an annual license tax on the business taxed under this section not in excess of twelve dollars and fifty cents ($12.50).

Phrenologists.

SEC. 116. *Phrenologists.*

Any person engaged in the practice of phrenology for compensation shall procure from the Commissioner of Revenue a State license for engaging in such practice, and shall pay for same a tax of two hundred dollars ($200.00) for each county in which such person does business.

Amount of tax per county.

Local units may tax.

Counties, cities, and towns may levy any license tax on the business taxed in this section.

Bicycle dealers.

SEC. 117. *Bicycle dealers.*

Any person, firm, or corporation engaged in the business of buying and/or selling bicycles, supplies and accessories shall apply for and procure a State license from the Commissioner of Revenue for the privilege of transacting such business, and shall pay tax for such license as follows:

Tax graduated according to population.

In cities and towns of less than 10,000 population	$10.00
In cities and towns of 10,000 and less than 20,000 population	20.00
In cities or towns of 20,000 population or more	25.00

No county tax.

Cities and towns may tax.

Counties shall not levy a license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of that levied by the State.

Pawnbrokers.

SEC. 118. *Pawnbrokers.*

Defined.

Every person, firm, or corporation engaged in and conducting the business of lending or advancing money or other things of value for a profit, and taking as a pledge for such loan specific articles of personal property, to be forfeited if payment is not made within a definite time, shall be deemed a pawnbroker, and shall pay for the privilege of transacting such business an annual license as follows:

Tax graduated according to population.

In cities or towns of less than 10,000 population	$200.00
In cities or towns of 10,000 and less than 15,000 population	250.00
In cities or towns of 15,000 and less than 20,000 population	300.00
In cities or towns of 20,000 and less than 25,000 population	350.00
In cities or towns of 25,000 population or more	400.00

Issuance of duplicate tickets.

(a) Before such pawnbroker shall receive any article or thing of value from any person or persons, on which a loan or advance is made, he shall issue a duplicate ticket, one to be delivered to the owner of said personal property and the other to be attached to the article, and said ticket shall have an identifying number on the one side, together with the date at the expiration of which the pledger forfeits his right to redeem, and on the other a full and complete copy of this subsection; but such pawnbroker may, after the pledger has forfeited his right to redeem the specific property pledged, sell the same at public auction, deducting from the proceeds of sale the money or fair value of the thing advanced, the interest accrued, and the cost of making sale, and shall pay the surplus remaining to the pledger.

Contents.

Sale after failure of owner to redeem.

Violations made misdemeanor.

(b) Any person, firm, or corporation transacting the business of pawnbroker without a license as provided in this section, or violating any of the provisions of this section, shall be guilty of a misdemeanor and fined not less than fifty dollars ($50.00) nor more than five hundred dollars ($500.00).

Local units may tax.

(c) Counties, cities, and towns may levy a license tax on the business taxed under this section not in excess of that levied by the State.

Cash registers, adding machines, etc.

SEC. 119. *Cash registers, adding machines, typewriters, refrigerating machines, washing machines, etc.*

Devices enumerated.

Every person, firm, or corporation engaged in the business of selling and/or delivering and/or renting cash registers, typewriters, adding or bookkeeping machines, billing machines, check protectors or protectographs, Kelvinators, Frigidaires, or other refrigerating machines, lighting systems, washing machines, mechanically or electrically operated burglar alarms, addressograph machines, multigraph and other duplicating machines, vacuum cleaners, mechanically or electrically operated oil burners and coal stokers, card punching, assorting and tabulating machinery, shall apply for and procure from the Commissioner of Revenue a State license for each place where such business is transacted in this State, and shall pay for such license a tax of ten dollars ($10.00).

Amount of tax.

Local units may not tax.

(a) Counties, cities, and towns shall not leavy a license tax on the business taxed under this section.

Sewing machines.

SEC. 120. *Sewing machines.*

(a) Every person, firm, or corporation engaged in the business of selling sewing machines within this State shall apply for and obtain from the Commissioner of Revenue a State-wide license for the privilege of engaging in such business and shall pay for such license a tax of one hundred dollars ($100.00) per annum for each such make of machines sold or offered for sale.

Amount of tax.

Gross receipts tax additional.

(b) In addition to the annual license tax imposed in Subsection (a) of this section, such person, firm, or corporation engaged in the business taxed under this section shall pay a tax at the rate of tax levied in Article V, Schedule E, of this Act, on retail sales of merchandise on the total receipts during the preceding year from the sale, lease, or exchange of sewing machines and/or accessories within the State, which said tax shall be paid to the Commissioner of Revenue at the time of securing the annual license provided for in Subsection (a) of this section: *Provided*, that the tax on sales in the preceding year, levied in this subsection, shall apply only for the fiscal year ending May thirty-first, one thousand nine hundred thirty-five: *Provided further*, that on and after June first, one thousand nine hundred thirty-five, the additional tax on sales levied in this subsection shall be assessed and collected under the provisions of Article V, Schedule E, of this Act, the same as the tax on sales of other merchandise.

Application of sales tax.

License tax on agents.

(c) Any person, firm, or corporation obtaining a license under the foregoing sections may employ agents and secure a duplicate copy of such license for each such agent by paying a tax of ten dollars ($10.00) to the Commissioner of Revenue. Each such duplicate license so issued shall contain the name of the agent to whom it is issued, shall not be transferable, and shall license the

licensee to sell or offer for sale only the sewing machine sold by the holder of the original license.

(d) Any merchant or dealer who shall purchase sewing machines from a manufacturer or a dealer who has paid the license tax provided for in this section may sell such sewing machines without paying the annual State-wide license tax provided for in Subsection (a), but shall procure the duplicate license provided for in Subsection (c) of this section: *Provided,* that the tax imposed by this subsection shall be the only tax required to be paid by dealers in secondhand sewing machines exclusively. Dealer not taxed where manufacturer pays tax.

(e) Any person, firm, or corporation who or which violates any of the provisions of this section shall, in addition to all other penalties imposed in this Act, pay an additional tax of double the State-wide annual license, and the duplicate tax imposed in this section. Penalty for violations.

(f) No county shall levy a license tax on the business taxed under this section, except that the county may levy a license tax not in excess of five dollars ($5.00) on each agent in a county who holds duplicate license provided for in this section. Taxation by counties.

Cities and towns shall not levy a license tax on the business taxed under this section. No tax by cities and towns.

SEC. 121. *Peddlers.* Peddlers.

(a) Any person, firm, or corporation who or which shall carry from place to place any goods, wares, or merchandise, and offer to sell or barter the same, or actually sells or barters the same, shall be deemed a peddler, except such person, firm, or corporation who or which is a wholesale dealer, with an established warehouse in this State and selling only to merchants for resale, and shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting such business, and shall pay for such license the following tax: Defined.

Peddler, on foot, for each county	$10.00
Peddler, with horse or other animal, and with or without vehicle, each county, for each vehicle	15.00
Peddler, with vehicle propelled by motor or other mechanical power, for each county, for each vehicle	25.00

Tax based on mode of travel.

(b) Any person, firm, or corporation employing the service of another as a peddler, whether on a salary or commission basis, shall be liable for the payment of taxes levied in this section. Employers liable for tax.

Provided, however, any person peddling fruits, vegetables, or products of the farm shall pay a license tax of twenty-five dollars ($25.00) per year, which license shall be State-wide. Counties, cities and towns may levy a tax under this subsection not in excess of one-half of the State tax. *Provided, however,* no county, city or town shall issue any license, or permit any person, firm, Peddlers of farm products. Local units may tax. State license required before issuance of license by local units.

or corporation to do any business under the provisions of this subsection, until and unless such person shall produce an exhibit to the tax collector of such county, city or town, his or its State license for the privilege of engaging in such business.

Fruit and vegetable vendors deemed peddlers.

(c) Any person, firm, or corporation who or which sells or offers to sell from a cart, truck, automobile, or other vehicle operated over and upon the streets and/or highways within this State any fresh fruits and/or vegetables shall be deemed a peddler within the meaning of this section and shall pay the annual license tax levied in Subsection (a) of this Act with reference to the character of the vehicle employed. Any person, firm, or corporation who or which sells or offers for sale from any railway car fresh fruits and/or vegetables shall be deemed a peddler within the meaning of this section, and shall pay an annual tax of twenty-five dollars ($25.00). Nothing in this section shall apply to the sale of farm products raised on the premises owned or occupied by the person, firm, or corporation, his or its bona fide agent or employee selling same.

Also vendors from railway cars.

Amount of tax.

Farm products excepted.

Itinerant salesmen and merchants.

(d) Every itinerant salesman or merchant who shall expose for sale, either on the street or in a building occupied, in whole or in part, for that purpose, any goods, wares or merchandise, not being a regular merchant in such county, shall apply for in advance and procure a State license from the Commissioner of Revenue for the privilege of transacting such business, and shall pay for such license a tax of one hundred dollars ($100.00) in each county in which he shall conduct or carry on such business.

Amount of tax.

"Itinerant" defined.

Any salesman or merchant, offering for sale goods, wares or merchandise, other than fruits and farm products, shall be deemed an itinerant, within the meaning of this subsection, who conducts said business within the county for less than six consecutive months, except in case of discontinuance for one of the reasons hereinafter mentioned. When any salesman or merchant, beginning said business, does not pay the tax herein levied in advance, on the ground of stated intention to become a regular merchant, the Commissioner of Revenue may, in his discretion, require said salesman or merchant to post satisfactory bond, or make a cash deposit, in the sum of one hundred dollars ($100.00), which bond or deposit shall be forfeited in payment of the tax herein levied in case such salesman or merchant discontinues said business in the county within less than six months for any reason other than death or disablement of said salesman or merchant, or insolvency of said business, or destruction of the stock by fire or other catastrophe. In like manner the tax collector of any county or city levying a tax, as permitted by Subsection (h), on the business taxed in this subsection, may, in his discretion, require posting of satisfactory bond or cash deposit in an amount equivalent to the tax so levied by said county or city; and said bond or deposit shall in like manner be subject to forfeiture in payment of said tax.

Bond in lieu of license tax pending determination of permanency of business.

Bond to local units.

Any salesman or merchant failing to post such bond or make such deposit within three days after being notified to do so by the commissioner or collector, shall immediately become liable for the taxes levied or authorized to be levied on the business taxed in this subsection. When any salesman or merchant, having been required to post such bond or deposit, has conducted said business for six consecutive months, or has discontinued said business within six months for one of the reasons specifically mentioned herein, he shall be entitled to have said bond canceled or said deposit returned.

Liability for tax upon failure to post bond.

Cancellation of bond.

(e) Every person, firm, or corporation, not being a regular retail merchant in the State of North Carolina, who shall display samples, goods, wares, or merchandise in any hotel room, or in any house rented or occupied temporarily, for the purpose of securing orders for the retail sale of such goods, wares, or merchandise so displayed, shall apply for in advance and procure a State license from the Commissioner of Revenue for the privilege of displaying such samples, goods, wares, or merchandise, and shall pay an annual privilege tax of two hundred and fifty dollars ($250.00), which license shall entitle such person, firm, or corporation to display such samples, goods, wares, or merchandise in any county in this State.

Persons other than retail merchants displaying goods and wares for purpose of securing orders.

Amount of tax.

(f) The provisions of this section shall not apply to any person, firm, or corporation who sells or offers for sale books, periodicals, printed music, ice, wood or fuel, fish, beef, mutton, pork, bread, cakes, pies, products of the dairy, poultry, eggs, livestock, or articles produced by the individual vendor offering them for sale, but shall apply to medicines, drugs, or articles assembled.

Certain articles excepted.

Drugs and medicines included.

(g) The Board of County Commissioners of any county in this State, upon proper application, may exempt from the annual license tax levied in this section Confederate soldiers, disabled veterans of the Spanish-American War, disabled soldiers of the World War, who have been bona fide residents of this State for twelve or more months continuously, and the blind who have been bona fide residents of this State for twelve or more months continuously, widows with dependent children; and when so exempted, the Board of County Commissioners shall furnish such person or persons with a certificate of exemption, and such certificate shall entitle the holder thereof to peddle within the limits of such county without payment of any license tax to the State.

Exemptions authorized by County Commissioners.

Certificate of exemption.

(h) Counties, cities, or towns may levy a license tax on the business taxed under this section not in excess of the annual license levied by the State. But the Board of County Commissioners of any county may levy a license tax on the business taxed in this section not in excess of that levied by the State for each unincorporated town or village in the county with a population of one thousand or more within a radius of one mile in which such busi-

Local units may tax.

Peddlers using motor vehicles.

ness is engaged in; and any county or city may levy on peddlers of goods, wares, or merchandise with vehicle propelled by motor or other mechanical power, taxed by the State under Subsection (a) of this section, a tax not exceeding two hundred dollars ($200.00) for each vehicle, which said tax may, in the discretion of the governing body, be graduated in accordance with the size or weight of said vehicles, the amount of merchandising space in and on said vehicles, the average value of goods carried, the types of products offered for sale, or any other reasonable principle, except that the tax levied hereunder on account of a vehicle of one-half ton capacity or less shall not exceed twenty-five dollars ($25.00).

Tax based on number and size of vehicle, etc.

Local units may not tax exempted persons.

No county, city, or town shall levy any license tax under this section upon the persons so exempted in this section, nor upon drummers selling by wholesale: *Provided*, the Public-Local Laws relating to any county or city in this State in conflict with this section are hereby repealed.

Conflicting local laws repealed.

Contractors and construction companies.

SEC. 122. *Contractors and construction companies.*

(a) Every person, firm, or corporation who, for a fixed price, commission, fee, or wage, offers or bids to construct within the State of North Carolina any building, highway, street, sidewalk, bridge, culvert, sewer or water system, drainage or dredging system, electric or steam railway, reservoir or dam, hydraulic or power plant, transmission line, tower, dock, wharf, excavation, grading or other improvement or structure, or any part thereof, the cost of which exceeds the sum of ten thousand dollars ($10,000.00), shall apply for and obtain from the Commissioner of Revenue an annual State-wide license, and shall pay for such license a tax of one hundred dollars ($100.00) at the time of or prior to offering or submitting any bid on any of the above enumerated projects.

Jobs exceeding $10,000.00 in cost.

Amount of tax.

Tax for State-wide license additional.

(b) In addition to the tax levied in Subsection (a) of this section, every person, firm, or corporation who, for a fixed price, commission, fee, or wage, undertakes or executes a contract for the construction, or who superintends the construction of any of the above enumerated projects, shall, before or at the time of entering into such projects and/or such contract, apply for and procure from the Commissioner of Revenue a State-wide license, and shall pay for such license the following tax:

Tax graduated on basis of estimated cost of project.

When the total contract price or estimated cost of such project is over:

$ 5,000	and not more than $10,000	$ 25.00
10,000	and not more than $50,000	50.00
50,000	and not more than $100,000	125.00
100,000	and not more than $250,000	175.00
250,000	and not more than $500,000	300.00

500,000 and not more than $750,000	400.00
750,000 and not more than $1,000,000	500.00
1,000,000	625.00

Application for license.

(c) The application for license under Subsection (b) of this section shall be made to the Commissioner of Revenue and shall be accompanied by the affidavit of the applicant, stating the contract price, if known, and if the contract price is not known, his estimate of the entire cost of the said improvement or structure, and if the applicant proposes to construct only a part of said improvement or structures, the contract price, if known, or his estimated cost of the part of the project he proposes to superintend or construct.

Accompanying affidavit.

Divided contracts considered as one.

In the event the construction of any of the above mentioned improvements or structures shall be divided and let under two or more contracts to the same person, firm, or corporation, the several contracts shall be considered as one contract for the purpose of this Act, and the Commissioner of Revenue shall collect from such person, firm, or corporation the license tax herein imposed as if only one contract had been entered into for the entire improvement or structure.

Payment of additional tax, where final cost exceeds estimate.

(d) In the event any person, firm, or corporation has procured a license in one of the lower classes provided for in Subsection (b) of this section, and constructs or undertakes to construct or to superintend any of the above mentioned improvements or structures or parts thereof, the completed cost of which is greater than that covered by the license already secured, application shall be made to the Commissioner of Revenue, accompanied by the license certificate held by the applicant, which shall be surrendered to the Commissioner of Revenue, and upon paying the difference between the cost of the license surrendered and the price of the license applied for, the Commissioner of Revenue shall issue to the applicant the annual State-wide license applied for, showing thereon that it was issued on the surrender of the former license and payment of the additional tax.

Surrender of old license.

Issuance of new license.

No tax on employee or sub-contractor.

(e) No employee or sub-contractor of any person, firm, or corporation who or which has paid the tax herein provided for, shall be required to pay the license tax provided for in this section while so employed by such person, firm, or corporation.

No county tax.

Cities and towns may levy annual contractor's license tax.

Inspection charges unaffected.

(f) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy an annual contractor's license tax not in excess of ten dollars ($10.00) when the license provided for under this section has been paid: *Provided*, that this subsection shall not be construed to prevent the collection of building, electrical, and plumbing inspection charges by municipalities to cover the actual cost of said inspection.

Exceptions.

(g) The tax under this section shall not apply to the business taxed in Section one hundred fifty-five of this Act.

Installing elevators and automatic sprinkler systems.

SEC. 122½. *Installing elevators and automatic sprinkler systems.*

Every person, firm, or corporation engaged in the business of selling or installing elevators or automatic sprinkler systems shall apply for and procure from the Commissioner of Revenue an annual State-wide license for the transaction of such business in this State, and shall pay for such license a tax of one hundred dollars ($100.00).

State-wide license.

Amount of tax.

Local units may tax.

(a) Counties, cities, and towns in which there is located a principal office or a branch office may levy a tax on the business taxed under this section not in excess of that levied by the State.

Limitation on taxation by local units.

Provided, however, no county, city, or town may collect tax under this section from any person, firm, or corporation who or which does not maintain an established place of business in said county, city or town.

Exemption from taxation under Section 155 hereof.

(b) The businesses taxed and licensed hereunder shall not be liable for any tax or license levied under Section one hundred fifty-five of this Act.

Repairing and servicing elevators and automatic sprinkler systems.

SEC. 122¾. *Repairing and servicing elevators and automatic sprinkler systems.*

Every person, firm, or corporation engaged in the business of repairing or servicing elevators or automatic sprinkler systems, shall apply for and procure from the Commissioner of Revenue, an annual State-wide license for the transaction of such business in this State and shall pay for such license the following tax based on population:

Tax graduated according to population.

Municipalities of less than two thousand population	$ 5.00
Municipalities of more than two thousand and less than five thousand population	7.50
Municipalities of more than five thousand and less than ten thousand population	10.00
Municipalities of more than ten thousand and less than twenty thousand population	12.50
Municipalities of more than twenty thousand and less than thirty thousand population	15.00
Municipalities of more than thirty thousand and less than forty thousand population	17.50
Municipalities of more than forty thousand and less than fifty thousand population	20.00
Municipalities of more than fifty thousand population	25.00

Local units may tax.

(a) Counties, cities and towns in which there is located a principal office or a branch office may levy a tax on the business taxed under this section not in excess of that levied by the State.

Limitation on taxation by local units.

Provided, however, no county, city or town may collect tax under this section from any person, firm, or corporation who, or

which, does not maintain an established place of business in said county, city or town.

(b) The tax under this section shall not apply to the business taxed in Sections one hundred twenty-two and one-half and one hundred fifty-five of this Act. Exceptions.

SEC. 123. *Mercantile agencies.* Mercantile agencies.

Every person, firm, or corporation engaged in the regular business of reporting the financial standing of persons, firms, or corporations for compensation shall be deemed a mercantile agency, and shall apply for and procure from the Commissioner of Revenue a State-wide license for the privilege of transacting such business within this State, and shall pay for such license a tax of five hundred dollars ($500.00), the said tax to be paid by the principal office in the State, and if no such principal office in this State, then by the agent of such mercantile agency operating in this State: *Provided,* the taxes for the mercantile agency doing special service for not more than one industry shall be two hundred fifty dollars ($250.00). Defined. State-wide license. Amount of tax. Special service agencies, half tax.

(a) Any person representing any mercantile agency which has failed to pay the license tax provided for in this section shall be guilty of a misdemeanor and fined and/or imprisoned in the discretion of the court. Failure to pay tax made misdemeanor.

(b) Counties, cities, or towns shall not levy any license tax under this section. Local units may not tax.

SEC. 124. *Gypsies and fortune tellers.* Gypsies and fortune tellers.

(a) Every company of gypsies or strolling bands of persons, living in wagons, tents, or otherwise, who or any of whom trade horses, mules, or other things of value, or receive reward for telling or pretending to tell fortunes, shall apply for in advance and procure from the Commissioner of Revenue a State license for the privilege of transacting such things, and shall pay for such license a tax of five hundred dollars ($500.00) in each county in which they offer to trade horses, mules, or other things of value, or to practice the telling of fortunes or any of their crafts. The amount of such license tax shall be recoverable out of any property belonging to any member of such company. Gypsies defined. Amount of tax.

(b) Any person or persons, other than those mentioned in Subsection (a) of this section, receiving rewards for pretending to tell and/or telling fortunes, practicing the art of palmistry, clairvoyance and other crafts of a similar kind, shall apply for in advance and procure from the Commissioner of Revenue a State license for the privilege of practicing such arts or crafts, and shall pay for such license a tax of two hundred dollars ($200.00) for each county in which they offer to practice their profession or Fortune tellers. Defined. Amount of tax per county.

Exceptions.

crafts: *Provided*, that the tax levied under this section shall not apply to fortune tellers or other artists practicing the art of palmistry, clairvoyance, and other crafts of a similar kind, when appearing under contract in regularly licensed theatres taxed under Section one hundred five.

Local units may tax.

(c) Any county, city, or town may levy a license tax on the business taxed under this section not in excess of that levied by the State.

Lightning rod agents.

SEC. 125. *Lightning rod agents.*

Approval of brand by Insurance Commissioner.

(a) No manufacturer or dealer, whether person, firm or corporation, shall sell, or offer for sale, in this State any brand of lightning rod, and no agent of such manufacturer or dealer shall sell, or offer for sale, or erect any brand of lightning rod until such brand has been submitted to and approved by the Insurance Commissioner and a license granted for its sale in this State. The

License fee.

fee for such license, including seal, shall be fifty dollars ($50.00).

Issuance of agent's license by Commissioner.

(b) Upon written notice from any manufacturer or dealer licensed under the preceding subsection of the appointment of a suitable person to act as his agent in this State, and upon filing an application for license upon the prescribed form, the Insurance Commissioner may, if he is satisfied as to the reputation and moral character of such applicant, issue him a license as general agent of such manufacturer or dealer. Said license shall set forth the

License fee.

brand of lightning rod licensed to be sold, and the fee for such license, including seal, shall be fifty dollars ($50.00).

Local agents taxed $10.00 per county.

(c) Such general agent may appoint local agents to represent him in any county in the State by paying to the Insurance Commissioner a fee of ten dollars ($10.00) for each such county. Upon filing application for license of such local agent on a prescribed

Tax of $3.00 for each agent per county.

form and paying him a fee of three dollars ($3.00) for each county in which said applicant is to operate, the Insurance Commissioner may, if he is satisfied that such applicant is of good repute and moral character, and is a suitable person to act in such capacity, issue him a license to sell and erect any brand of lightning rod approved for sale by the general agent in such county applied for.

Statements as to gross receipts by general agents.

(d) Each general agent shall submit to the Insurance Commissioner semi-annually, on January thirty-first and July thirty-first, on prescribed forms, a sworn statement of gross receipts from the sale of lightning rods in this State during the preceding

Rate of tax on gross sales.

six months, and pay a tax thereon of eighty cents (80c) on each one hundred dollars ($100.00), such returns to be accompanied by an itemized list showing each sale, the county in which sold, and the agent making the sale.

Local unit taxes limited.

(e) No county, city, or town shall levy a license or privilege

tax exceeding twenty dollars ($20.00) on any dealer having a general office or selling from a receiving point.

(f) Licenses issued under this section are not transferable, are valid for only one person, and revocable by the Insurance Commissioner for good cause after hearing. Conditions of license.

(g) Every agent licensed under this section shall, upon demand, exhibit his license to any officer of the law or citizen, and any person, firm, or corporation acting without a license or selling or offering for sale any brand of lightning rod not approved by the Insurance Commissioner, or otherwise violating any of the provisions of this Act, shall be punished by a fine of not more than two hundred dollars ($200.00) and/or six months imprisonment for each offense. Exhibition of license on demand. Violations made misdemeanor.

SEC. 126. *Hotels.* Hotels.

Every person, firm, or corporation engaged in the operation of any hotel in this State shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting such business, and shall pay for such license the following tax:

(a) For hotels operating on the American plan for rooms in which rates per person per day are: American plan.

Less than two dollars	$ .60
Two dollars and less than three dollars	.90
Three dollars and less than four dollars and fifty cents	1.80
Four dollars and fifty cents and less than six dollars	4.20
Six dollars and less than seven dollars and fifty cents	5.40
Seven dollars and fifty cents and less than fifteen dollars	6.00
Over fifteen dollars	7.20

Tax per room based on rates charged.

(b) For hotels operating on the European plan for rooms in which the rates per person per day are: European plan.

Less than two dollars	$1.25
Two dollars and less than three dollars	3.00
Three dollars and less than four dollars and fifty cents	4.50
Four dollars and fifty cents and less than six dollars	5.50
Six dollars and less than seven dollars and fifty cents	6.50
Seven dollars and fifty cents and less than ten dollars	7.50
Over ten dollars	8.50

Tax per room based on rates charged.

(c) The office, dining room, one parlor, kitchen, and two other rooms shall not be counted when calculating the number of rooms in the hotel. Rooms not counted.

(d) Only one-half of the annual license tax levied in this section shall be levied or collected from resort hotels and boarding houses which are open for only six months or less in the year: *Provided,* that the minimum tax under any schedule in the section shall be five dollars ($5.00). Resort hotels at half-tax. Minimum.

No county tax.

Cities and towns may tax.

(e) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one-half of the base tax levied by the State.

Tourist homes and tourist camps.

SEC. 126½. *Tourist homes and tourist camps.*

(a) Every person, firm, or corporation engaged in the business of operating a tourist home, tourist camp, or similar place advertising in any manner for transient patronage, or soliciting such business, shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting such business, and shall pay the following tax:

Tax based on number of rooms.

Homes or camps having five rooms or less, ten dollars ($10.00); houses or camps having more than five rooms, two dollars ($2.00) per room. For the purpose of this section, the sitting-room, dining room, kitchen, and rooms occupied by the owner or lessee of the premises, or members of his family, for his or their personal or private use, shall not be counted in determining the number of rooms for the basis of the tax. The tax herein levied shall be in addition to any tax levied in Section one hundred twenty-seven for the sale of prepared food.

Rooms excepted.

Tax in addition to that on prepared food.

No county tax.

Cities and towns may tax.

(b) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one-half of the base tax levied by the State.

Restaurants.

SEC. 127. *Restaurants.*

Defined.

Every person, firm, or corporation engaged in the business of operating a restaurant, cafe, cafeteria, hotel, with dining service on the European plan, drug store, or other place where prepared food is sold, shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting such business. The tax for such license shall be based on the number of persons provided with chairs, stools, or benches, and shall be one dollar ($1.00) per person, with a minimum tax of five dollars ($5.00): *Provided,* that the tax levied in this paragraph shall not apply to industrial plants maintaining a non-profit restaurant, cafe or cafeteria solely for the convenience of its employees.

Tax based on seating capacity.

Exception.

Tax on other food stands.

(a) All other stands or places where prepared food is sold as a business, and drug stores, service stations, and all other stands or places where prepared sandwiches only are served, shall pay a tax of five dollars ($5.00).

No county tax.

Cities and towns may tax.

(b) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one-half of the base tax levied by the State.

Cotton compresses.

SEC. 128. *Cotton compresses.*

Tax per compress.

Every person, firm, or corporation engaged in the business of compressing cotton shall pay an annual license tax of three hundred dollars ($300.00) on each and every compress.

Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of that levied by the State.

No county tax.

Cities and towns may tax.

SEC. 129. *Billiard and pool tables, and bowling alleys.*

Every person, firm, or corpartion who shall rent, maintain, own a building wherein there is a table or tables at which billiards or pool is played, whether operated by slot or otherwise, shall apply for and procure from the Commissioner of Revenue a State license for the privilege of operating such billiard or pool tables, and shall pay for such license a tax for each table as follows:

Billiard and pool tables.

Tables measuring not more than 2 feet wide and 4 feet long	$ 5.00
Tables measuring not more than 2½ feet wide and 5 feet long	10.00
Tables measuring not more than 3 feet wide and 6 feet long	15.00
Tables measuring not more than 3½ feet wide and 8 feet long	20.00
Tables measuring more than 3½ feet wide and 8 feet long	25.00

Tax based on size of tables.

Every person, firm, or corporation who shall rent, maintain, own a building wherein there is a bowling alley or alleys of like kind shall apply for and procure from the Commissioner of Revenue a State license for the privilege of operating such bowling alley or alleys, and shall pay for such license a tax of twelve and fifty one-hundredths dollars ($12.50) for each alley kept or operated.

Bowling alleys taxed per alley.

Provided, each such billiard or pool table so licensed shall receive a number and receipt from the Commissioner of Revenue when the license is issued, and it shall be the duty of each operator to attach said numbered license to said table or machine and shall display the same at all times. Failure to have such license and receipt on display attached to said machine or table shall be prima facie evidence that the tax has not been paid hereunder.

License for billiard or pool table to be attached thereto.

Display of license.

(a) This section shall not apply to fraternal organizations having a national charter, American Legion posts, Young Men's Christian Associations, and Young Women's Christian Associations.

Organizations excepted.

(b) If the Commissioner of Revenue shall have issued any such State license to any person, firm, or corporation to operate any billiard or pool tables, bowling alley or alleys, in any city or town, the Board of Aldermen or other governing body of such city or town shall have the right at any time, and notwithstanding the issuance of such State license, to prohibit any billiard or pool tables, bowling alley or alleys of like kind within its limits, unless otherwise provided in its charter; and in the event any city or town shall exercise the right to prohibit the keeping and operation of such billiard or pool tables, bowling alley or alleys of like kind, the Commissioner of Revenue shall refund the proportion of the tax thereof during the time which the right is not allowed to be

Cities and towns may prohibit operation of tables, notwithstanding issuance of State license.

Refunds in event of prohibition by local units.

Revocation of licenses issued to operators outside of towns upon resolution of County Commissioners.

exercised bears to the time for which the tax is paid. And, where the Commissioner of Revenue has issued any such license and the said billiard or pool tables, bowling alley or alleys is or are to be, or are operated outside of the corporate limits of any incorporated city or town, the Board of County Commissioners may by resolution request that such license be revoked, and upon receipt of such resolution the Commissioner of Revenue shall forthwith revoke said license and refund the proportion of the tax thereof during the time which the right is not allowed to be exercised bears to the time for which the tax is paid.

Refund in event of revocation.

Local units may tax.

(c) Counties may levy a license tax on the business taxed under this section upon such billiard or pool tables, bowling alleys as are located outside of incorporated cities or towns, and cities and towns may levy a license tax upon such as are within the city limits, but in neither case shall the license tax so levied be in excess of the tax levied by the State.

Slot machines and locks, etc.

SEC. 130. *Slot locks, vendors, music, amusement games and devices.*

Operation of slot machines and devices without license prohibited.

(1) It shall be unlawful, unless licensed as hereinafter provided, for any person, firm, or corporation to own, operate or maintain in any place of business or other place for the purpose of being operated for gain or profit any machine or device operated upon the coin-in-the-slot principle or operated otherwise in which is kept any article to be purchased or any machine wherein may be seen any picture or heard any music or slot weighing machine or any machine for the making of stencils or any slot lock or any machine or device for the playing of games or amusement of the players thereof, when a uniform price shall be fixed for the operation of said device by the insertion of a coin in the slot or otherwise, pursuant to which operation the player or user thereof may or may not make varying scores or tallies or when such operation thereof may or may not result in some combinations of symbols shown or indicated thereon. *Provided*, such varying scores and tallies or combination of symbols do not cause such machine or device to vend automatically any slug, premium, prize, coupon, reward, refund or rebate, or other thing of value, which might be used in the further operation of such device, or for which no cash value is received. *Provided further*, this section shall not apply to slot telephones, slot luggage or parcel lockers or stamp machines.

Exemptions.

Slot telephones, etc. excepted.

Annual operator's occupational license for slot machines.

(2) Any person, firm, or corporation who engages in the business of leasing, renting, letting on shares, selling or who engages in the business of placing on location, within this State, any of the above types of machines or devices shall before engaging in such operation, first apply for and obtain from the Commissioner of Revenue what shall be known as an

annual operator's occupational license, for the privilege of engaging in the said business and shall pay therefor an annual license tax of one thousand dollars ($1,000.00). The license tax herein provided for shall cover an annual privilege tax as provided by law and shall be payable on or before the first day of June of each year. *Provided*, the above annual operator's occupational license tax shall not apply to any person, firm, or corporation engaged in the business of operating any machine that vends any article of merchandise, music machines, weighing machines, and stencil making machines, but same shall apply to persons engaged in the business of operating all types of amusement machines.

Amount of tax.

Exemptions.

(3) In addition to the above license tax every person, firm, or corporation operating any of the above mentioned machines or devices shall apply for and obtain from the Commissioner of Revenue what shall be termed a State-wide license for each machine operated and shall pay therefor the following annual tax:

State-wide license.

Music machines	$ 10.00
Amusement games or devices requiring deposits of less than five cents	10.00
Amusement games or devices, requiring deposits of five cents and not more than nine cents	20.00
Amusement games or devices, requiring deposits of not less than ten cents and not more than twenty-four cents	50.00
Amusement games or devices, requiring deposits of not less than twenty-five cents and not more than forty-nine cents	100.00
Amusement games or devices, requiring deposits of not less than fifty cents and not more than ninety-nine cents	250.00
Amusement games or devices, requiring deposits of not less than one dollar and over	500.00
Vendors selling solely soft drinks at five cents	30.00
Slot pool tables measuring not more than two feet wide and four feet long	5.00
Slot pool tables measuring not more than two and one-half feet wide and five feet long	10.00
Slot pool tables measuring not more than three feet wide and six feet long	15.00
Slot pool tables measuring not more than three and one-half feet wide and eight feet long	20.00
Slot pool tables measuring more than three and one-half feet wide and eight feet long	25.00

Tax based on amount of deposit.

(4) Any person, firm, or corporation who engages in the business of leasing, renting, letting on shares, selling, or who

Annual operator's occupational license for vending machines.

engages in the business of placing on location within this State any slot machines for vending merchandise described in this section shall, before engaging in such operation, first apply for and obtain from the Commissioner of Revenue what shall be known as an annual operator's occupational license for the privilege in engaging in said business, and shall pay therefor an annual license tax of twenty-five dollars ($25.00). In addition to the annual license tax every person, firm, or corporation operating slot merchandise vending machines requiring a deposit of one cent, except operators operating slot merchandise vending machines that vend solely peanuts and candies made of peanuts containing fifty per cent or more peanuts, shall procure from the Commissioner of Revenue a separate license for each such machine, which shall be pasted in a conspicuous place on the machine, and shall pay for each such separate license fifty cents (50c).

Amount of tax.

Separate license for each machine.

Every operator of merchandise vending machines requiring a deposit of five cents, except operators operating slot merchandise vending machines that vend solely peanuts and candies made of peanuts containing fifty per cent or more peanuts, shall in addition to the annual operator's license levied in this section, procure from the Commissioner of Revenue a separate license for each such machine, which shall be pasted in a conspicuous place on the machine, and shall pay for each separate license one dollar ($1.00).

Exemption.

Posting of license.

Each machine or device, the licensing and operation of which is hereby permitted shall, before same shall be legal, have permanently affixed thereto an identifying serial number. The license shall carry the serial number to correspond with that on the application, and no such license shall be transferable to any other machine. On amusement machines or games on which the State-wide annual operator's occupational license is required the number of the said license shall be securely attached and affixed to each and every device, together with the name of the owner of every machine or device operated within the State under such rules and regulations as may be promulgated by the Commissioner of Revenue. It shall be the duty of the person in whose place of business the machine is operated or located to see that the proper State license is attached in a conspicuous place on the machine before its operation shall commence. Failure to do so shall make such person liable for the additional tax imposed in Section one hundred ninety of this Act. *Provided*, that it shall be within the discretion of the Commissioner of Revenue as to whether he shall issue duplicate license under this section when it is ascertained by him that the original license has been lost, misplaced, destroyed, or otherwise left the possession of the licensee.

Identifying serial number required.

License not transferable.

License attached to machine.

Penalty for failure.

Issuance of duplicate license discretionary.

(4½) Every person, firm, or corporation who engages in the business of leasing, renting, letting on shares, selling, or who

License for cigarette vending machines.

engages in the business of placing on location within this State slot machines for vending cigarettes shall, before engaging in such operation, first apply for and obtain from the Commissioner of Revenue what shall be known as annual operator's occupational license for the privilege of engaging in the said business, and shall pay therefor an annual license tax of one hundred dollars ($100.00). In addition to the above license tax, every person, firm, or corporation operating any of the above mentioned machines shall apply for and obtain from the Commissioner of Revenue what shall be termed a State-wide license for each machine operated, which shall be pasted in a conspicuous place on the machine, and shall pay therefor an annual tax of ten dollars ($10.00), and each said vending machine shall be subject to a retailer's cigarette tax at same rate as provided in Section one hundred forty-nine of this Revenue Act in all cases that the said cigarette tax has not been paid by the retailer.

Amount of tax.

State-wide license tax additional.

Amount of tax.

(5) If any person, firm, or corporation shall fail, neglect, or refuse to comply with the terms and provisions of this section and shall fail to attach a proper State license and correct serial number to any machine or apparatus as provided herein, the Commissioner of Revenue or his agents or deputies shall forthwith seize and destroy such machine, apparatus, then and there, and the money found therein shall be turned in and applied to the license due on said machine. *Provided*, nothing in this section shall be construed to release the owner or operator of such machine or apparatus from the liability for the tax provided under this section.

Violation of section authorizes seizure of machines.

Liability for tax unaffected.

It is the intention of this section to license and permit the operation of only legal machines as defined in Subsection one of this section and not the intention to license or legalize any gambling machine or device, or any other machine in connection with the operation of which there is given or allowed any premium, prize, coupon, reward, refund or rebate.

Construction of section.

(6) Sales of merchandise in the merchandising, vending or amusement machines herein referred to shall be subject to the provisions of Article V, Schedule E of this Act, and such tax shall be paid by the operator of such machines.

Subject to sales tax.

(7) Counties, cities and towns may levy and collect a license tax not in excess of fifty (50) per cent of the license tax collected by the State under Subsection three. *Provided*, that counties, cities, and towns shall not levy or collect any annual operator's occupational license tax provided in this section. *Provided further*, however, that counties, cities and towns shall not levy and collect any tax against vendors selling solely soft drinks at five cents. Counties, cities and towns may levy an annual operator's license tax on the business taxed under Subsection four of this section as to machines requiring a deposit of five cents not in excess of five dollars ($5.00). Counties, cities and towns may levy an

Limitation of taxation by local units.

annual operator's license tax on the machines taxed under Subsection four and one-half not in excess of ten dollars ($10.00).

Per se gambling devices not authorized.

(8) *Provided*, that nothing contained in Section one hundred thirty shall have the effect of making legal any machine or device that is per se a gambling machine or device.

Bagatelle tables, merry-go-rounds, etc.

SEC. 131. *Bagatelle tables, merry-go-rounds, etc.*

Enumerated.

Every person, firm, or corporation that is engaged in the operation of a bagatelle table, merry-go-round or other riding device, hobby horse, switchback railway, shooting gallery, swimming pool, skating rink, other amusements of a like kind, or a place for other games or play with or without name (unless used solely and exclusively for private amusement or exercise), at a permanent location, shall apply for and procure from the Commissioner of Revenue a State license for the privilege of operating such objects of amusement, and shall pay for each subject enumerated the following tax:

Tax based on population.

In cities or towns of less than 10,000 population	$ 10.00
In cities or towns of 10,000 population and over	25.00

Exceptions.

(a) The tax under this section shall not apply to machines and other devices licensed under Sections one hundred twenty-nine and one hundred thirty of this Act.

Local units may tax.

(b) Counties, cities or towns may levy a license tax on the business taxed under this section not in excess of that levied by the State.

Security dealers.

SEC. 132. *Security dealers.*

Defined.

(a) Every person, firm, or corporation who or which is engaged in the business of dealing in securities as defined in "An Act to provide laws governing the sale of stocks, bonds, and other securities in the State of North Carolina", etc., or who or which maintains a place for or engaged in the business of buying and/or selling shares of stock in any corporation, bonds, or any other securities on commission or brokerage, shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting such business, and shall pay for such license the following tax:

Tax graduated according to population.

In cities or towns of less than 5,000 population	$ 25.00
In cities or towns of 5,000 and less than 10,000 population	50.00
In cities or towns of 10,000 and less than 15,000 population	100.00
In cities or towns of 15,000 and less than 25,000 population	200.00
In cities or towns of 25,000 population and above	300.00

Separate license for each office.

(b) Every dealer, as defined herein, who shall maintain in the State of North Carolina more than one office for dealing in securities, as hereinbefore defined, shall apply for and procure from the Commissioner of Revenue a license for the privilege of

transacting such business at each such office, and shall pay for such license the same tax as hereinbefore fixed.

Same tax on foreign dealers.

(c) Every foreign dealer, as dealer is hereinbefore defined, who shall maintain an office in this State, or have a salesman in this State, shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting such business, and shall pay for such license the tax hereinbefore imposed.

Leased wire or ticker service.

(d) If such person, firm, or corporation described in Subsection (a) of this section maintains and/or operates a leased or private wire and/or ticker service in connection with such business the annual license tax shall be as follows:

Tax based on population

In cities and towns of less than 10,000 population	$ 150.00
In cities and towns of 10,000 and less than 15,000 population	250.00
In cities and towns of 15,000 and less than 20,000 population	350.00
In cities and towns of 20,000 to 25,000 population	450.00
In cities and towns of 25,000 or more	600.00

Exception.

Providing, that the tax levied in Subsection (d) shall not apply to private wire service not connected with or handling quotations of a stock exchange, grain or cotton exchange.

No county tax.

Cities and towns may tax.

(e) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy license tax not in excess of fifty dollars ($50.00).

SEC. 133. *Cotton buyers and sellers on commission.*

Cotton buyers and commission merchants.

(1) Every person, firm, or corporation who or which engaged in the business of buying and/or selling on commission any cotton, grain, provisions, or other commodities, either for actual, spot, or instant delivery, shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting such business in this State, and shall pay for such license a tax of fifty dollars ($50.00).

Amount of tax.

Higher tax for leased wire or ticker service.

(2) Every person, firm, or corporation who or which engages in the business of buying or selling any cotton, grain, provisions, or other commodities, either for actual, spot, instant or future delivery, and also maintains and/or operates a private or leased wire and/or ticker service in connection with such business shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting such business in this State and shall pay for such license the following tax:

Tax based on population.

In cities and towns of less than 10,000 population	$ 100.00
In cities and towns of 10,000 and less than 15,000 population	200.00
In cities and towns of 15,000 and less than 25,000 population	400.00
In cities and towns of 25,000 population or more	600.00

Only one tax levied.

Persons, firms, and corporations who pay the tax imposed in Subsection (d) of Section one hundred thirty-two shall not be required to pay the tax imposed in this subsection.

Tax on cotton merchants.

(3) Every person, firm, or corporation, domestic or foreign, who or which is engaged in the business of selling any cotton either for actual, spot, instant, or future delivery, in excess of five thousand bales per annum, shall be deemed to be a cotton merchant, shall apply for and obtain from the Commissioner of Revenue a State-wide license for each office or agency maintained in this State for the sale of cotton and shall pay for each such license the following tax:

Tax based on population.

In cities and towns of less than 10,000 population	$ 50.00
In cities and towns of 10,000 and less than 15,000 population	100.00
In cities and towns of 15,000 and less than 25,000 population	200.00
In cities and towns of 25,000 population and over	300.00

No county tax.

Cities and towns may tax.

(4) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of fifty dollars ($50.00).

Bottlers, etc.

SEC. 134. *Manufacturers, producers, bottlers, and distributors of soft drinks.*

Soft drink distributors defined.

(a) Every person, firm, or corporation or association manufacturing, producing, bottling and/or distributing in bottles, or other closed containers, soda water, coca-cola, pepsi-cola, cherocola, ginger ale, grape and other fruit juices or imitations thereof, carbonated or malted beverages and like preparations, or preparations of any nature whatever commonly known as soft drinks, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of doing business in this State, and shall pay for such license the following base tax for each place of business:

Tax on low pressure equipment.

LOW-PRESSURE EQUIPMENT

Where the machine or the equipment unit used in the manufacture of the above beverage is a:

Based on number of spouts.

41 spouts, or greater capacity, low-pressure filler	$3,000.00
36 spouts and less than 41 spouts, low-pressure filler	2,500.00
32 and less than 36 spouts, low-pressure filler	2,000.00
24 and less than 32 spouts, low-pressure filler	1,000.00
18 and less than 24 spouts, low-pressure filler	750.00
12 and less than 18 spouts, low-pressure filler	250.00

High pressure equipment.

HIGH-PRESSURE EQUIPMENT

Where the machine or the equipment unit used in the manufacture of the above mentioned beverages is a Royal (8-head),

Shields (6-head), Adriance (6-head), or other high-pressure equipment having manufacturer's rating capacity of over sixty bottles per minute, two thousand five hundred dollars ($2,500.00). 60 bottles per minute and over.

Royal (4-head), Adriance (2-head), Shields (2-head), full equipment having manufacturer's rating capacity of over fifty and less than sixty bottles per minute, two thousand dollars ($2,000.00). 50 to 60 bottles.

Royal (4-head), Adriance (2-head), Shields (2-head) (full automatic), or other high-pressure equipment having manufacturer's rating capacity of more than forty and less than fifty bottles per minute, one thousand dollars ($1,000.00). 40 to 50 bottles.

Dixie (automatic), Shields (2-head hand feed), Adriance (1-head), Calleson (1-head), Senior (high pressure), Junior (high-pressure), or Burns or other high-pressure equipment having manufacturer's rating capacity of more than twenty-four bottles and less than forty bottles per minute, one hundred fifty dollars ($150.00). 24 to 40 bottles.

Single-head Shields, Modern Bond (power), Baltimore (semi-automatic), and all other machines or equipment having manufacturer's rating capacity of less than twenty-four bottles per minute and all foot-power bottling machines, one hundred dollars ($100.00). Less than 24 bottles per minute.

Provided, that any bottling machine or equipment unit not herein specifically mentioned shall bear the same tax as a bottling machine or equipment unit of the nearest rated capacity as herein enumerated: *Provided further*, that where any person, firm, corporation, or association has within his or its bottling plant or place of manufacture more than one bottling machine or equipment unit, then such person, firm, corporation, or association shall pay the tax as herein specified upon every such bottling machine or equipment unit whether in actual operation or not: *Provided further*, that where no standard high or low-pressure bottling machine is used to fill the containers, a tax of fifty dollars ($50.00) shall apply. The tax levied in this section shall not apply to any product containing more than fifty per cent (50%) of milk, put up in containers for sale as food rather than soft drink preparations. Tax on units not set out. Tax accumulative on various units. Tax on non-standard units. Milk drinks excepted.

(b) Every person, corporation, or association distributing, selling at wholesale, or jobbing bottled beverages as enumerated in Subsection (a) of this section shall pay an annual license tax for the privilege of doing business in this State, as follows: Wholesalers.

In cities or towns of 30,000 inhabitants or more	$100.00
In cities or towns of 20,000 inhabitants and less than 30,000 inhabitants	90.00
In cities or towns of 10,000 inhabitants and less than 20,000 inhabitants	80.00

Tax based on population.

In cities or towns of 5,000 inhabitants and less than 10,000 inhabitants 70.00
In cities and towns of 2,500 inhabitants and less than 5,000 inhabitants 60.00
In rural districts and towns of less than 2,500 inhabitants ... 50.00

Certain products excepted.

The tax levied in this subsection shall not include the right to sell products authorized to be sold under Article VI, Schedule F, of this Act.

Tax on cereal or carbonated beverages.

(c) Every distributing warehouse selling or supplying to retail stores cereal or carbonated beverages manufactured or bottled within the State, but outside of the county in which such cereal or carbonated beverages are manufactured or bottled, shall pay one-half of the annual license tax for the privilege of doing business in this State provided for in Subsection (b) of this section.

Tax on distributors where manufacturer's tax not paid.

(d) Every distributing warehouse selling or supplying to retail stores cereal or carbonated beverages on which the tax has not been paid under the provisions of Subsection (a) of this section shall pay the annual license tax for the privilege of doing business in the State provided in Subsection (b) of this section.

Tax on motor vehicles distributing drinks bottled outside State.

(e) Each truck, automobile, or other vehicle coming into this State from another state, and selling and/or delivering carbonated beverages on which the tax has not been paid under the provisions of Subsection (a) of this section, shall pay an annual license tax for the privilege of doing business in this State, in the sum of two hundred dollars ($200.00) per truck, automobile, or vehicle. The license secured from the State under this section shall be posted in the cab of the truck, automobile, or vehicle.

Tax per vehicle.

License posted in cab.

No county tax.

(f) No county shall levy a tax on any business taxed under the provisions of this section, nor shall any city or town in which any person, firm, corporation, or association taxed hereunder has its principal place of business levy and collect more than one-eighth of the State tax levied under this section; nor shall any tax be levied or collected by any county, city, or town on account of the delivery of the products, beverages, or articles enumerated in Subsection (a) or (b) or (c) or (d) of this section when a tax has been paid under any of those subsections.

Limit on tax of cities and towns.

Packing houses.

SEC. 135. *Packing houses.*

Defined.

Every person, firm, or corporation engaged in or operating a meat packing house in this State, and every wholesale dealer in meat packing-house products who owns, leases, or rents and operates a cold-storage room or warehouse in connection with such wholesale business, shall apply for and procure from the Commissioner of Revenue a State license for the privilege of conducting such business in this State, and shall pay for such license the sum of one hundred dollars ($100.00) for each county

Tax per county.

in which is located such a packing house or a cold storage room or warehouse. Every person, firm, or corporation maintaining a cold-storage room or warehouse and distributing such products to other stores owned in whole or in part by the distributor for sale at retail shall be deemed a wholesale dealer or distributor in the meaning of this Act. Counties shall not levy any tax on business taxed under this section.

Wholesaler defined.

No county tax.

SEC. 136. *Newspaper contests.*

Newspaper contests.

Every person, firm, or corporation that conducts contests and offers a prize, prizes, or other compensation to obtain subscriptions to newspapers, magazines, or other periodicals in this State shall apply for and procure from the Commissioner of Revenue a State license for the privilege of conducting such contests, and shall pay for such license the following tax for each such contest:

Defined.

Monthly, weekly, semi-weekly newspaper, magazine or other periodical	$ 50.00
Daily newspaper or other daily periodical	200.00

Periodicals other than daily.

Daily periodicals.

Counties, cities and towns may levy a tax not to exceed one-half of that levied by the State under the provisions of this Act.

Local units may tax.

SEC. 137. *Persons, firms, or corporations selling certain oils.*

Oil and gasoline dealers.

(a) Every person, firm, or corporation engaged in the business of selling illuminating or lubricating oil or greases, or benzine, naphtha, gasoline, or other products of like kind shall apply for and procure from the Commissioner of Revenue a State license for the privilege of conducting such business, and shall pay for the same a tax of two dollars and fifty cents ($2.50).

Defined.

Amount of tax.

(b) In addition to the tax herein levied under Subsection (a) of this section, such person, firm, or corporation shall pay to the Commissioner of Revenue, on or before the first day of July of each year, an annual additional license tax equal to five per cent (5%) of the total gross sales for the preceding year or part of the year that the business is so conducted or the privilege so exercised, when the total gross sales of such commodities exceed five thousand dollars ($5,000.00), or pro rata for a part of the year.

Additional tax of 5% on gross sales.

(c) The amount of such total gross sales shall be returned to the Commissioner of Revenue on or before the date specified in Subsection (b) of this section by such person, firm, or corporation, verified by the oath of the person making the return, upon such forms and in such detail as may be required by the Commissioner of Revenue.

Verified returns on sales.

(d) Counties shall not levy any license tax on the business taxed under this section; but cities or towns in which there is located an agency, station, or warehouse for the distribution or sale of such commodities enumerated in this section may levy the following license tax:

No county tax.

Cities and towns may tax on basis of population.

In incorporated towns and cities of less than 10,000 population	$ 25.00
In cities and towns of 10,000 population and over	50.00

Penalty for violation.

(e) Any person, firm, or corporation subject to this license tax, and doing business in this State without having paid such license tax, shall be fined one thousand dollars ($1,000.00), and in addition thereto double the tax imposed by this section.

No other tax to be levied.

(f) No license or privilege tax, other than the license tax permitted in this section to cities or towns, shall be levied or collected for the privilege or engaging in or doing the business named in this section from any person, firm, or corporation paying the inspection fees and charges provided for under Article XIV of Chapter eighty-four of the Consolidated Statutes of one thousand nine hundred nineteen and the amendments thereto, except license taxes levied in Sections one hundred fifty-three and one hundred sixty-two and one-half of this article.

Inspection fees.

Exceptions.

Building and loan associations.

SEC. 138. *Building and loan associations.*

Defined.

Every building and loan association, domestic or foreign, operating under a charter granted by authority of the laws of this State or any other state, or the United States, for the purpose of making loans to its members only and of enabling its members to acquire real estate, make improvements thereon, and remove encumbrances therefrom by the payment of money in periodical installments or principal sums, and for the accumulation of a fund to be returned to members who do not obtain advances for such purposes, shall pay to the Insurance Commissioner, on or before the first day of April of each year, the following annual license tax for the privilege of doing business in the State:

Tax payable to Insurance Commissioner.

Tax based on book value of shares at close of previous year.

(a) A tax of thirteen cents (13c) on each one hundred dollars ($100.00) of liability on actual book value of shares of stock outstanding on the thirty-first day of December of the preceding year, as shown by reports of such association to be made to the Insurance Commissioner. The tax levied herein shall be in addition to the license fee required under Section five thousand one hundred eighty-six, Consolidated Statutes, and expenses and cost of examination required under Section five thousand one hundred ninety, Consolidated Statutes.

Additional to license fees.

Local units may not tax.

(b) Counties, cities, and towns shall not levy any license tax on the business taxed in this section.

Pressing clubs, etc.

SEC. 139. *Pressing clubs, dry cleaning plants, and hat blockers.*

Defined.

Every person engaging in any of the businesses as herein defined shall apply for and procure from the Commissioner of Revenue a State license for the privilege of conducting such a business, and pay for each such place of business the following tax in each city or town in which he operates any such place of

business, except branch offices when located in the same city or town as the parent establishment shall pay one-half the tax levied on the parent establishment: One-half tax for branch offices.

In cities or towns of less than 10,000 population:	
Where not more than three (3) persons are employed	$ 12.50
Where more than three (3) persons are employed	25.00
In cities and towns of 10,000 population and over:	
Where not more than three (3) persons are employed	$ 25.00
Where more than three (3) persons are employed	50.00

Tax based on number of employees, also population.

Every person, firm, or corporation soliciting cleaning work and/or pressing in any city or town where the actual cleaning and/or pressing is done in a cleaning plant or press shop located outside the city or town wherein said cleaning work and/or pressing is solicited shall procure from the Commissioner of Revenue a State license for the privilege of soliciting in said city or town, and pay for the same an amount equal to the tax which would be paid by said cleaning plant or press shop as if the said cleaning plant or press shop was actually located and being operated in the city or town in which the soliciting is done. This shall not apply to soliciting in cities or towns where there is no cleaning plant, press shop or established agency with fixed place of business, provided that the solicitor shall have paid a State, county and municipal license tax in this State. Soliciting in other cities and towns deemed engaging in business. Exception.

Cities and towns, respectively, may levy a license tax not in excess of that levied by the State. Counties shall not levy a license tax on the business taxed under this section. Cities and towns may tax. No county tax.

(a) Definitions: For the purpose of this section, the following definitions shall apply: Definitions.

"Dry Cleaning, and/or Hat Blocking, and/or Pressing Establishments" shall mean any place of business, establishment or vehicle wherin the services of dry cleaning, wet cleaning as a process incidental to dry cleaning, spotting and/or pressing, finishing and/or reblocking hats, garments, or wearing apparel of any kind is performed. "Dry cleaning," "hat blocking" and "pressing establishments."

"Retail Outlet" shall mean any place of business or vehicle where garments are accepted to be dry cleaned and/or pressed, but where the actual dry cleaning and/or pressing is not performed on the premises or vehicles, and where the dry cleaning and/or pressing is performed by a dry cleaning plant or press shop operating under a trade name other than that of the retail outlet. "Retail outlet."

"Branch Office" shall mean an additional establishment where garments are accepted to be dry cleaned and/or pressed, when same is owned and operated by a dry cleaning plant, press shop, or retail outlet and under the same trade name, but where the "Branch office."

actual dry cleaning and/or pressing is not performed on the premises.

"Soliciting." "Soliciting" as used herein shall mean the acceptance of any article or garment to be dry cleaned and/or pressed.

"Person." "Person" as used herein shall mean any person, firm, corporation, partnership, or association.

"Employee." The term "Employee" as used herein shall mean any person working either partially or full time for a cleaning plant, press shop, hat blocking establishment, retail outlet or branch office and shall include all drivers, solicitors and route salesmen irrespective of the method of payment they receive for their services, and shall also include independent contractors soliciting under the same style and firm name as the processing plant. It shall also include any member of the firm, association, corporation or partnership who actually performs any work of any nature in the business.

College students excepted. (1) This section shall not apply to any bona fide student of any college or university in this State operating such pressing or dry cleaning business at such college or university during the school term of such college or university.

Process tax additional. In addition to the annual tax levied in this section, it is hereby required, with respect to every such concern herein referred to, that with each delivery of articles of clothing or other articles herein referred to and cleaned or otherwise processed as herein referred to there shall be issued a charge ticket, to each of which tickets there shall be affixed a service stamp tax of one cent (1c) on all packages on which the charge is one dollar ($1.00) or less, and for packages of more than one dollar ($1.00), one cent (1c) for each dollar or fraction thereof, the amount of such tax to be added to such charge ticket and to be paid for by the customer.

Charge tickets and service stamps.

Commissioner to furnish stamps. The stamps for such purpose are to be made available by the Commissioner of Revenue and by him sold to pressing and/or cleaning concerns at par and for cash only, as the same may be needed by the pressing and/or cleaning concerns of the State in order to meet the requirements of this Act. It shall be unlawful for any person, firm, or corporation engaged in such business to make any delivery except in compliance with this section, and the violation of any of the provisions hereof is hereby declared to be a misdemeanor.

Violations made misdemeanor.

Liability for additional tax upon failure to use stamps. Any person, firm, or corporation that fails to comply with the provisions of this section and fails to place stamps on each delivery shall be liable for a tax of three per cent of the total amount of charges made for the particular dry cleaning, pressing and/or hat blocking from which the stamp was omitted.

Barber shops and beauty shops. SEC. 140. *Barber shops.*

Every person, firm, or corporation engaged in the business of

conducting a barber shop, beauty shop or parlor, or other shop of like kind shall apply for and procure from the Commissioner of Revenue a State license for the privilege of conducting such business, and shall pay for such license the following tax:

Tax based on number of chairs and operators.

For each barber chair maintained in a barber shop	$2.50
For each barber, manicurist, cosmetologist, beautician, or operator in beauty parlor, or other shop of like kind in any office, hotel, or other place	5.00

Counties shall not levy a license tax under this section, but cities and towns may levy a license tax not in excess of that levied by the State.

No county tax.

Cities and towns may tax.

SEC. 141. *Shoeshine parlors.*

Shoeshine parlors.

Every person, firm, or corporation who or which maintains or operates a place of business wherein is operated a shoeshine parlor, stand, or chair or other device shall apply for and procure from the Commissioner of Revenue a State license for the privilege of conducting such business and shall pay for such license a tax of one dollar ($1.00) per chair or stool.

Tax based on number of chairs.

Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one-half of that levied by the State.

No county tax.

Cities and towns may tax.

SEC. 142. *Tobacco Warehouses.*

Tobacco warehouses.

Every person, firm, or corporation engaged in the business of operating a warehouse for the sale of leaf tobacco upon commission shall, on or before the first day of June of each year, apply for and obtain from the Commissioner of Revenue a State license for the privilege of operating such warehouse for the next ensuing year, and shall pay for such license the following tax:

For a warehouse in which was sold during the preceding year ending the first day of June:

Tax based on number of pounds sold during preceding year.

Less than 1,000,000 pounds	$ 50.00
1,000,000 pounds and less than 2,000,000	75.00
2,000,000 pounds and less than 3,000,000	175.00
3,000,000 pounds and less than 4,000,000	250.00
4,000,000 pounds and less than 5,000,000	400.00
5,000,000 pounds and less than 6,000,000	500.00

For all in excess of 6,000,000 pounds, $500.00 and six cents per thousand pounds.

(a) If a new warehouse not in operation the previous year, the person, firm, or corporation operating such warehouse may procure a license by payment of the minimum tax provided in the foregoing schedule, and at the close of the season for sales of

New warehouses may pay minimum tax and have assessment at close of first year.

tobacco in such warehouse shall furnish the Commissioner of Revenue a statement of the number of pounds of tobacco sold in such warehouse for the current year, and shall pay an additional license tax for the current year based on such total volume of sales in accordance with the schedule in this section.

Change of management does not affect tax.

If an old warehouse with new or changed ownership or management, the tax shall be paid according to the schedule in this section, based on the sale during the preceding year, just as if the old ownership or management had continued its operation.

Commissioner of Agriculture to furnish list of warehouses each year.

(b) The Commissioner of Agriculture shall certify to the Commissioner of Revenue, on or before the first day of June of each year, the name of each person, firm, or corporation operating a tobacco warehouse in each county in the State, together with the number of pounds of leaf tobacco sold by such person, firm, or corporation in each warehouse for the preceding year, ending on the first day of June of the current year.

Failure to make report of sales unlawful.

Prosecution of violators.

(c) The Commissioner of Agriculture shall report to the solicitor of any judicial district in which a tobacco warehouse is located which the owner or operator thereof shall have failed to make a report of the leaf tobacco sold in such warehouse during the preceding year, ending the first day of June of the current year, and such solicitor shall prosecute any such person, firm or corporation under the provisions of this section.

Tax based on reports to Department of Agriculture.

(d) The tax levied in this section shall be based on official reports of each tobacco warehouse to the State Department of Agriculture showing amount of sales for each warehouse for the previous year.

Examination of books and records of warehouses.

(e) The Commissioner of Revenue or his deputies shall have the right, and are hereby authorized, to examine the books and records of any person, firm, or corporation operating such warehouse, for the purpose of verifying the reports made and of ascertaining the number of pounds of leaf tobacco sold during the preceding year, or other years, in such warehouse.

Violations of section made misdemeanor.

(f) Any person, firm, or corporation who or which violates any of the provisions of this section shall, in addition to all other penalties provided for in this Act, be guilty of a misdemeanor, and upon conviction shall be fined not less than five hundred dollars ($500.00) and/or imprisoned, in the discretion of the court.

No county tax.

Cities and towns may tax.

(g) No county shall levy any license tax on the business taxed under this section. Cities and towns may levy a tax not in excess of fifty dollars ($50.00) for each warehouse.

Newsdealers on trains.

SEC. 143. *News dealers on trains.*

Defined.

Every person, firm, or corporation engaged in the business of selling books, magazines, papers, fruits, confections, or other

articles of merchandise on railroad trains or other common carriers in this State shall apply for and obtain a State license from the Commissioner of Revenue for the privilege of conducting such business, and shall pay for such license the following tax:

Tax based on rail mileage.

Where such person, firm, or corporation operates on railroads or other common carriers on:

Less than 300 miles	$ 250.00
Three hundred and less than 500 miles	500.00
Five hundred miles or more	$1,000.00

Exceptions.

This section shall not apply to any railroad company engaged in selling such articles to passengers on its train and paying the tax upon the retail sales of merchandise levied in Article V, Schedule E, of this Act.

Local units may not tax.

Counties, cities, and towns shall not levy any license tax on the business taxed under this section.

Soda fountains, soft drink stands, etc.

SEC. 144. *Soda Fountains, soft drink stands.*

Every person, firm, or corporation engaged in the business of operating a soda fountain or soft drink stand shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of conducting such business, and shall pay for such license the following tax:

Tax on soda fountains.

(a) On soda fountains.

On each carbonated draft arm of each soda fountain, a tax of ten dollars ($10.00).

Tax on soft drink stands.

On each stand at which soft drinks are sold, the same not being strictly a soda fountain, and on each place of business where bottled carbonated drinks are sold at retail, the license tax shall be five dollars ($5.00).

Gross sales tax additional.

In addition to the license tax levied in this section, the tax shall be paid upon the gross sales at the rate of tax levied in Article V, Schedule E, of this Act, upon the retail sales of merchandise, such tax to be paid at the time and in the manner required for the sales of other merchandise.

No county tax.

Counties shall not levy a license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one-half of the base tax levied by the State.

Cities and towns may tax.

SEC. 145. *Dealers in pistols, etc.*

Dealers in pistols, etc.

Every person, firm, or corporation who is engaged in the business of keeping in stock, selling, and/or offering for sale any of the articles or commodities enumerated in this section, shall apply for and obtain a State license from the Commissioner of Revenue for the privilege of conducting such business, and shall pay for such license the following tax:

Articles and tax schedule.

For pistols ..... $ 50.00
For bowie knives, dirks, daggers, sling-shots, leaded canes, iron or metallic knuckles, or articles of like kind 200.00
For blank cartridge pistols 200.00

Metallic cartridges.

(a) If such person, firm, or corporation deal only in metallic cartridges, the tax shall be ten dollars ($10.00).

Local units may tax.

(b) Counties, cities, or towns may levy a license tax on the business taxed under this section not in excess of that levied by the State.

Dealers in cap pistols, fireworks, etc.

SEC. 146. *Dealers in cap pistols, fireworks, etc.*

Every person, firm, or corporation engaged in the business of selling or offering for sale fire crackers, fireworks, or other articles of like kind, cap pistols, or pistols so constructed that they can by treatment to release the hammer be used to fire caps, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business, and shall pay for the same a tax of one hundred dollars ($100.00).

Amount of tax.

Local units may tax.

Counties, cities, or towns may levy a license tax on the business taxed under this section not in excess of twice that levied by the State.

Musical instruments.

SEC. 147. *Pianos, organs ,victrolas, records, radios, accessories.*

Every person, firm, or corporation engaged in the business of selling, offering or ordering for sale any of the articles hereinafter enumerated in this section shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of conducting such business, and shall pay for each license the following tax:

For pianos and/or organs, graphophones, victrolas, or other instruments using discs or cylinder records, and/or the sale of records for either or all of these instruments, radios or radio accessories, an annual license tax of ten dollars ($10.00).

Amount of tax.

Duplicate licenses for agents.

(a) Any person, firm, or corporation applying for and obtaining a license under this section may employ traveling representatives or agents, but such traveling agents or representatives shall obtain from the Commissioner of Revenue a duplicate license of such person, firm, or corporation who or which he represents, and pay for the same a tax of ten dollars ($10.00).

Amount of tax.

Contents of duplicate.

Each duplicate copy so issued is to contain the name of the agent to whom it is issued, the instrument to be sold, and the same shall not be transferable.

Validity of agent's license.

Representatives or agents holding such duplicate copy of such license are licensed thereby to sell or offer for sale only the instrument and/or articles authorized to be sold by the person,

firm, or corporation holding the original license, and such license shall be good and valid in any county in the State.

(b) Every person, firm, or corporation violating any of the provisions of this section shall be guilty of a misdemeanor and shall pay a penalty of two hundred and fifty dollars ($250.00), and in addition thereto double the State license tax levied in this section for the then current year.

Violations of section made misdemeanor.

(c) Counties shall not levy any license tax on the business taxed under this section, except that the county in which the agent or representative holding a duplicate copy of the license aforesaid may impose a license tax not in excess of five dollars ($5.00). Cities or towns may levy a license tax on the business taxed under this section not in excess of one-half of that levied by the State.

Taxing by counties.

Cities and towns may tax.

SEC. 148. *Installment paper dealers.*

Installment paper dealers.

(a) Every person, firm, or corporation, foreign or domestic, engaged in the business of dealing in, buying, and/or discounting installment paper, notes, bonds, contracts, evidences of debt and/or other securities, where lien is reserved or taken upon personal property located in this State to secure the payment of such obligations, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business or for the purchasing of such obligations in this State, and shall pay for such license an annual tax of one hundred dollars ($100.00).

Defined.

Amount of tax.

(b) In addition to the tax levied in Subsection (a) of this section, such person, firm, or corporation shall submit to the Revenue Commissioner quarterly on the first day of January, April, July, and October of each year, upon forms prescribed by the said commissioner, a full, accurate, and complete statement, verified by the officer, agent, or person making such statement, of the total face value of the installment paper, notes, bonds, contracts, evidences of debt, and/or other securities described in this section dealt in, bought and/or discounted within the preceding three months and, at the same time, shall pay a tax of one-third of one per cent of the face value of such obligations dealt in, bought and/or discounted for such period.

Verified quarterly reports to Commissioner.

Additional tax based on amount of business.

(c) If any person, firm, or corporation, foreign or domestic, shall deal in, buy and/or discount any such paper, notes, bonds, contracts, evidences of debt and/or other securities described in this section without applying for and obtaining a license for the privilege of engaging in such business or dealing in such obligations, or shall fail, refuse, or neglect to pay the taxes levied in this section, such obligation shall not be recoverable or the collection thereof enforceable at law or by suit in equity in any of the courts of this State until and when the license taxes prescribed

Failure to pay tax bars recovery on securities.

in this section have been paid, together with any and all penalties prescribed in this Act for the non-payment of taxes.

Banks excepted.

(d) This section shall not apply to corporations organized under the State or National banking laws.

Local units may not tax.

(e) Counties, cities and towns shall not levy any license tax on the business taxed under this section.

Tobacco and cigarette dealers.

SEC. 149. *Tobacco and cigarette retailers and jobbers.*

Defined.

Every person, firm, or corporation engaged in the business of retailing and/or jobbing cigarettes, cigars, chewing tobacco, snuff, or any other tobacco products shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business, and shall pay for such license the following tax:

Tax based on Population.

Outside of incorporated cities or towns and cities or towns of less than 1,000 population	$ 5.00
Cities or towns of 1,000 population and over	10.00

No county tax.

Cities and towns may tax.

Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of that levied by the State.

Laundries.

SEC. 150. *Laundries.*

Defined.

Every person, firm, or corporation engaged in the business of operating a laundry, including wet or damp wash laundries, where steam, electricity, or other power is used, or who engages in the business of supplying or renting clean linen or towels, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business, and shall pay for such license the following tax:

Tax based on population.

In cities or towns of less than 5,000 population	$ 12.50
In cities or towns of 5,000 and less than 10,000 population	25.00
In cities or towns of 10,000 and less than 15,000 population	37.50
In cities or towns of 15,000 and less than 20,000 population	50.00
In cities or towns of 20,000 and less than 25,000 population	60.00
In cities or towns of 25,000 and less than 30,000 population	72.50
In cities or towns of 30,000 and less than 35,000 population	85.00
In cities or towns of 35,000 and less than 40,000 population	100.00
In cities or towns of 40,000 and less than 45,000 population	112.50
In cities or towns of 45,000 population and above	125.00

Lower tax on small establishments.

Provided, however, that any laundry or other concern herein referred to where the work is performed exclusively by hand or home-size machines only, and where not more than four persons are employed, including the owners, the license tax shall be one-third of the amount stipulated in the foregoing schedule.

Tax on solicitors for outside concerns.

Every person, firm, or corporation soliciting laundry work or

supplying or renting clean linen or towels in any city or town, outside of the city or town wherein said laundry or linen supply or towel supply business is established, shall procure from the Commissioner of Revenue a State license as provided in the above schedule, and shall pay for such license a tax based according to the population of the city or town, for the privilege of soliciting therein. The additional tax levied in this paragraph shall apply to the soliciting of laundry work or linen supply or towel supply work in any city or town in which there is a laundry, linen supply or towel supply establishment located in the said city or town. The soliciting of business for or by any person, firm, or corporation engaged in the business of laundry work and/or supplying or renting clean linen or towels shall and the same is hereby construed to be engaging in the said business. Any person, firm, or corporation soliciting in said city or town shall procure from the Commissioner of Revenue a State license for the privilege of soliciting in said city or town, said tax to be in the sum equal to the amount which would be paid if the solicitor had an establishment and actually engaged in such business in the said city or town; *provided* the solicitor has paid a State, county and municipal license in this State.

Additional tax applies only where an established business is located.

Soliciting deemed engaging in business.

License necessary.

Amount of tax.

Counties, cities and towns, respectively, may levy a license tax not in excess of twelve dollars and fifty cents ($12.50) on any person, firm, or corporation engaged in the business of laundry work and/or supplying or renting clean linens or towels in instances when said work is performed outside the said county or town, or when the linen or towels are supplied by business outside said county or town.

Local units may tax.

Limitations.

In addition to the annual tax levied in this section, it is hereby required with respect to every laundry, including wet or damp wash laundries, where steam, electricity, or other power is used, or who engages in the business of supplying or renting clean linen or towels, that with each delivery of laundry for which there is a charge made there shall be issued a charge ticket, to each of which tickets there shall be affixed a service stamp tax of one cent on all packages on which the charge is one dollar or less, and for packages of more than one dollar, one cent for each dollar or fraction thereof, the amount of such tax to be added to such charge ticket and be paid for by the customer. The stamps for such purpose are to be made available by the Commissioner of Revenue and by him sold to said laundries at par and for cash only, as the same may be needed by the laundries of the State in order to meet the requirements of this Act. It shall be unlawful for any person, firm, or corporation engaged in such business to make any delivery except in compliance with this section, and the violation of any of the provisions is hereby declared to be a misdemeanor.

Charge tickets and service stamps required.

Amount of such additional tax.

Stamps furnished by Commissioner.

Violations made misdemeanor.

Any person, firm, or corporation that fails to comply with the

Liability for additional tax upon failure to use stamps.

provisions of this section and fails to place stamps on each delivery shall be liable for a tax of three per cent of the total amount of charges for the particular laundry work from which the stamps were omitted.

Outdoor advertising.

SEC. 151. *Outdoor advertising.*

Defined.

(a) Every person, firm, or corporation who or which is engaged in the business of outdoor advertising by placing, erecting or maintaining one or more outdoor advertising signs or structures of any nature by means of sign boards, poster boards, or printed bulletins, or other painted matter, or any other outdoor advertising devices, erected upon the grounds, walls or roofs of buildings, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business in this State, and shall pay annually for said license as follows:

Tax based on number of signs.

For posting or erecting 20 or more signs or panels	$25.00
For posting or erecting less than 20 signs or panels, for each sign or panel	1.00

Additional tax based on population.

And in addition thereto the following license tax for each city, town or other place in which such sign boards, poster boards, painted bulletins and other painted or printed matter or other outdoor advertising devices are maintained, in cities and towns of:

Less than 1,000 population	$ 5.00
1,000 to 1,999 population	10.00
2,000 to 2,999 population	15.00
3,000 to 3,999 population	20.00
4,000 to 4,999 population	25.00
5,000 to 7,499 population	30.00
7,500 to 14,999 population	50.00
15,000 to 24,999 population	100.00
25,000 to 49,999 population	150.00
50,000 population and over	200.00
In each county outside of cities and towns	25.00

Motion picture advertising excepted.

Provided, that the tax levied in this Act shall not apply to regularly licensed motion picture theatres taxed under Section one hundred five upon any advertising signs, structures, boards, bulletins, or other devices erected by or placed by the theatre upon property which the theatre has secured by permission of the owner.

Outdoor advertising further defined.

Every person, firm, or corporation who or which places, erects or maintains one or more outdoor advertising signs, structures, boards, bulletins or devices as specified in this section shall be deemed to be engaged in the business of outdoor advertising, but

Tax on private signs.

when the applicant intends to advertise his own business exclusively by the erection or placement of such outdoor advertising signs, structures, boards, bulletins or devices as specified in this

section, he may be licensed to do so upon the payment annually of one dollar ($1.00) for each sign up to one thousand (1,000) in number, and for one thousand (1,000) or more, the sum of one thousand dollars ($1,000.00) for the privilege in lieu of all other taxation as provided in this section, except such further taxation as may be imposed upon him by cities or towns, acting under the power to levy not in excess of one-half of that specified in paragraph two of Subsection (a) of this section.

Further taxation by cities and towns.

(b) Every person, firm, or corporation shall show in its application for the State license herein provided for the name of each incorporated city or town within which, and the county within which, it is maintaining or proposes to maintain said sign boards, poster boards, painted bulletins or other painted or printed signs or other outdoor advertising devices within the State of North Carolina. No person, firm, or corporation, licensed under the provisions of this Act, shall erect or maintain any outdoor advertising structure, device or display until a permit for the erection of such structure, device or display shall have been obtained from the Commissioner of Revenue. Application for such permit shall be in writing, signed by the applicant or his duly authorized agent, upon blanks furnished by the Commissioner of Revenue, in such form and requiring such information as said Commissioner of Revenue may prescribe. Each application shall have attached thereto the written consent of the owners or duly authorized agent of the property on which structures, device or display is to be erected or maintained, and shall state thereon the beginning and ending of such dates written permission: *Provided*, the subsection shall not apply to persons, firms, or corporations who or which advertise their or its own business exclusively, and who or which have been licensed therefor pursuant to Subsection (a) of this section.

Contents of application for license.

Permits for outdoor advertising structures.

Application for permit.

Contents of application.

Exceptions.

(c) It shall be unlawful for any person engaged in business of outdoor advertising to in any manner print, place, post, tack of outdoor advertising to in any manner print, place, post, tack or affix, or cause to be painted, printed, placed, posted, tacked or affixed any sign or other printed or painted advertisement on or to any stone, tree, fence, stump, pole, building or other object which is upon the property of another without first obtaining the written consent of such owner thereof, and any person, firm, or corporation who in any manner paints, prints, places, posts, tacks or affixes, or causes same to be painted, printed, posted, tacked or affixed such advertisement on the property of another except as herein provided shall be guilty of a misdemeanor, and shall be punished by a fine not exceeding fifty dollars ($50.00), or imprisonment of thirty days: *Provided*, that the provisions of this section shall not apply to legal notices.

Necessity of obtaining written consent of landowners before erecting signs.

Violations made misdemeanor.

Legal notices excepted.

(d) It shall be unlawful for any person, firm, or corporation to paint, print, place, post, tack or affix any advertising matter

Consent of State Highway Commission and local authorities necessary for advertising upon streets or highways.

within the limits of the right of way of public highways of the State without the permission of the State Highway Commission, or upon the streets of the incorporated towns of the State without permission of the governing authorities, and if and when signs of any nature are placed without permission within the highways of the State, or within the streets of incorporated towns, it shall be the duty of the Highway Commission or any other administrative body or other governing authorities of the cities and towns of said State to remove said advertising matter therefrom.

Owners must be identified on signboards.

(e) Every person, firm, or corporation owning or maintaining sign boards, poster boards, printed bulletins, or other outdoor advertisements of any nature within this State shall have imprinted on the same the name of such person, firm, or corporation in sufficient size to be plainly visible and permanently affixed thereto.

No license to nonresidents until surety bond posted.

(f) A license shall not be granted any person, firm, or corporation having his or its principal place of business outside the State for the display of any advertising of any nature whatsoever, designed or intended for the display of advertising matter, until such person, firm, or corporation shall have furnished and filed with the Commissioner of Revenue a surety bond to the State, approved by him, in such sum as he may fix, not exceeding five thousand dollars ($5,000.00), conditioned that such license shall fulfill all requirements of law, and lawful regulations and orders of said Commissioner of Revenue, relative to the display of advertisements. Such surety bond shall remain in full force and effect as long as any obligations of such licensee to the State shall remain unsatisfied.

Amount and condition of bond.

Obstruction of view on highway prohibited.

(g) No advertising, or other signs specified in this Act, shall be erected in the highway right of way so as to obstruct the vision or otherwise to increase the hazards, and all signs upon the highways shall be placed in a manner to be approved by the said Highway Commission.

Seizure and removal of unlawful signs authorized.

(h) Any person, firm, or corporation who or which shall refuse to or neglect to comply with the terms and provisions of this section, and who shall fail to pay the tax herein provided for within thirty days after the same shall become due, or who shall paint, print, place, post, tack, affix or display any advertising sign or other matter contrary to the provisions of this Act, the Highway Commission of the State of North Carolina or other governing body having jurisdiction over the roads and highways of the State, and the governing authorities of cities and towns and its agents and employees, and the Board of County Commissioners of the various counties of said State and its employees are directed to forthwith seize and remove or cause to be removed all advertisements, signs or other matter displayed contrary to the provisions of this Act.

For the purpose of more effectually carrying into effect the

provisions of this section, the Commissioner of Revenue is authorized and directed to prepare and furnish to the Highway Commission or other governing body having jurisdiction over the roads and highways of the State a sufficient number of permits to be executed by the owner, lessee or tenant occupying the lands adjacent to the highways of the State, upon which advertisements, signs or other matter displayed contrary to the provisions of this Act, in words as follows:

Permits for removal by proper authorities.

"I, (we), (owner), (leesee), (tenant), authorize and direct the Highway Commission of the State of North Carolina to remove from my lands the following signs and advertising matter placed upon my lands unlawfully or without my permission:.....

Form of permit.

"This.....day of....., 19.....

....."

And the said Highway Commission or other governing body having jurisdiction over the roads and highways of the State shall forthwith proceed, through its agents, servants and employees, wherever and whenever in its opinion it is necessary to secure the consent to the removal of said signs or other advertising matter from the lands of the owner, lessee or tenant, to secure said consent and to immediately remove said signs or other advertising matter from the lands adjacent to the highways of the State of North Carolina as herein directed.

Removal of signs by State or local authorities.

(i) Every person, firm, or corporation who violates any of the provisions of this section shall be guilty of a misdemeanor, and in addition to the license tax and penalties provided for herein shall be fined not more than one hundred dollars ($100.00) for each sign so displayed, or imprisoned, in the discretion of the court.

Violations made misdemeanor.

(j) Counties shall not levy any license tax under this section, but cities and towns may levy license tax not in excess of one-half of that levied by the State under paragraph two of Subsection (a).

No county tax.

Cities and towns may tax.

(k) Every person, firm, or corporation applying for a license as required in Subsection (a) hereof shall state in his application the number of advertisements, advertising spaces or devices he proposes to erect and/or maintain. Upon issuing licenses to any applicant the Commissioner of Revenue shall issue a metal tag for each of the advertisements, advertising spaces or devices mentioned in the application, to be valid for one year from its issuance and showing on its face the date of its expiration. Such metal tag or device erected, maintained or used by him shall be attached by the advertiser in such way as to be plainly visible to the front of each advertisement, advertising space.

Contents of application for license.

Tags issued by Commissioner.

Display of tag on advertising device.

(l) Any advertisement, advertising space or device not bear-

Removal of untagged signs as public nuisance.

ing such a tag which shows that it has expired, or otherwise erected or maintained contrary to the provisions of this section, shall be deemed a public nuisance and shall be summarily removed or destroyed by the State Highway Department.

Signs excepted.

(m) The following signs and announcements are exempted from the provisions of this section: Signs upon property advertising the business conducted thereon; notice or advertisements erected by public authority or required by law in any legal proceedings; any signs containing sixty (60) square feet or less bearing an announcement of any town or city advertising itself: *Provided*, the same is maintained at public expense.

No tax on private signs.

No tax shall be levied under this section against any person, firm, or corporation erecting, painting, posting or otherwise displaying signs or panels advertising his or its own business containing twelve (12) square feet or less of advertising surface: *Provided*, that this exemption shall not apply if the signs or panels are displayed in more than five counties: *And provided further*, that Subsection (L) shall not apply to signs and panels displayed hereunder.

Exception.

Motor advertisers.

SEC. 151½. *Motor advertisers.*

Defined.

Every person, firm, or corporation operating over the streets or highways of this State any motor vehicle or other mechanical conveyance equipped with radio, phonograph, or other similar mechanism to produce music, or having any loud-speaker attachment or other sound magnifying device to produce sound effects for advertising purposes, whether advertising his or its own products or those of others, shall be deemed a motor advertiser, shall procure from the Commissioner of Revenue a State-wide license for the privilege of engaging in such business in this State,

Amount of tax.

and shall pay for such license a tax of one hundred dollars ($100.00) for each vehicle or conveyance so used: *Provided*, that any such advertiser owning a located place of business in this State and advertising in not more than five counties shall pay one-fourth the tax provided in this section.

Local units may tax.

(b) Counties may levy a license tax on the business taxed under this section not in excess of one-fourth of that levied by the State, and cities and towns may levy a tax not in excess of ten dollars ($10.00).

Loan agencies or brokers.

SEC. 152. *Loan agencies or brokers.*

Defined.

Every person, firm, or corporation engaged in the regular business of making loans or lending money, accepting liens on, or contracts of assignments of, salaries or wages, or any part thereof, or other security or evidences of debt for repayment of such loans in installment payments or otherwise, and maintaining in connection with same any office or other located or established

place for the conduct, negotiation, or transaction of such business and/or advertising or soliciting such business in any manner whatsoever, shall be deemed a loan agency, and shall apply for and procure from the Commissioner of Revenue a State license for the privilege of transacting or negotiating such business at each office or place so maintained, and shall pay for such license a tax of seven hundred fifty dollars ($750.00). Amount of tax.

(a) Nothing in this section shall be construed to apply to banks, industrial banks, trust companies, building and loan associations, cooperative credit unions, nor installment paper dealers defined and taxed under other sections of this Act, nor shall it apply to business of negotiating loans on real estate as described in Section one hundred nine of this Act, nor to pawnbrokers lending or advancing money on specific articles of personal property. Banks, etc. excepted.
It shall apply to those persons or concerns operating what are commonly known as loan companies or finance companies and whose business is as hereinbefore described, and those persons, firms, or corporations pursuing the business of lending money and taking as security for the payment of such loan and interest an assignment of wages or an assignment of wages with power of attorney to collect same, or other order or chattel mortgage or bill of sale upon household or kitchen furniture. Application of section.

(b) At the time of making any such loan, the person, or officer of the firm or corporation making the same, shall give to the borrower in writing in convenient form a statement showing the amount received by the borrower, the amount to be paid back by the borrower, and the time in which said amount is to be paid, and the rate of interest and discount agreed upon. Record furnished borrower.

(c) Any such person, firm, or corporation failing, refusing, or neglecting to pay the tax herein levied shall be guilty of a misdemeanor, and in addition to double the tax due shall be fined not less than two hundred and fifty dollars ($250.00) and/or imprisoned, in the discretion of the court. Failure to pay tax made misdemeanor.
No such loan shall be collectible at law in the courts of this State in any case where the person making such loan has failed to pay the tax levied herein, and/or otherwise complied with the provisions of this section. Bars right of action on debt.

(d) Counties, cities, and towns may levy a license tax on the business taxed under this section not in excess of one hundred dollars ($100.00). Local units may tax.

SEC. 153. *Automobiles and motorcycle dealers and service stations.* Automobiles, Motorcycles and service stations.

(1) Automotive Service Stations: Service stations.

Every person, firm, or corporation engaged in the business of servicing, storing, painting, repairing, welding, or upholstering of motor vehicles, trailers, semi-trailers, or engaged in the business of retail selling and/or delivering of any tires, tools, bat- Defined.

teries, electrical equipment, automotive accessories, including radios designed for exclusive use in automobiles, or supplies, motor fuels and/or lubricants, or any of such commodities, in this State, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business in this State, and shall pay for such license an annual tax for each location where such business is carried on, as follows:

Tax based on population.

In cities or towns of less than 2,500 population	$10.00
In cities or towns of 2,500 and less than 5,000 population	15.00
In cities or towns of 5,000 and less than 10,000 population	20.00
In cities or towns of 10,000 and less than 20,000 population	30.00
In cities or towns of 20,000 and less than 30,000 population	40.00
In cities or towns of 30,000 or more	50.00

Tax on rural stations.

(a) In rural sections where a service station is operated the tax shall be five dollars ($5.00), unless more than one pump is operated, in which event the tax shall be five dollars ($5.00) per pump.

Minimum tax per pump.

(b) The tax levied in this section shall in no case be less than five dollars ($5.00) per pump.

No tax on employees where employer pays tax.

(c) No additional license tax under this subsection shall be levied upon or collected from any employee, agent, or salesman whose employer or principal has paid the tax for each location levied in this subsection.

Section 121 inapplicable.

(d) The tax imposed in Section one hundred twenty-one shall not apply to the sale of gasoline to dealers for resale.

Local units may tax.

(e) Counties, cities, and towns may levy a license tax on each place of business located therein under this subsection not in excess of one-fourth of that levied by the State.

Motorcycle dealers.

(2) Motorcycle Dealers:

Defined.

Every person, firm, or corporation, foreign or domestic, engaged in the business of buying, selling, distributing, and/or exchanging motorcycles or motorcycle supplies or any of such commodities in this State shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business in this State, and shall pay for such license an annual tax for each location where such business is carried on, as follows:

Tax based on population.

In unincorporated communities and cities or towns of less than 2,500 population	$10.00
In cities or towns of 2,500 and less than 5,000 population	15.00
In cities or towns of 5,000 and less than 10,000 population	20.00
In cities or towns of 10,000 and less than 20,000 population	25.00
In cities or towns of 20,000 and less than 30,000 population	30.00
In cities or towns of 30,000 population or more	40.00

(a) A motorcycle dealer paying the license tax under this subsection may buy, sell, and/or deal in bicycles and bicycle supplies without the payment of an additional license tax. License covers dealing in bicycles.

(b) No additional license tax shall be levied upon or collected from any employee or salesman whose employer has paid the tax levied in this subsection. No tax on employee where employer pays tax.

(c) No motorcycle dealer shall be issued dealer's tags until the license tax levied under this subsection has been paid. Dealer's tags not issued until tax paid.

(d) Counties, cities, and towns may levy a license tax on each place of business located therein, taxed under this subsection, not in excess of one-fourth of that levied by the State, with the exception that the minimum tax may be as much as ten dollars ($10.00). Local units may tax.

(3) Automotive Equipment and Supply Dealers at Wholesale: Equipment and supply dealers.

Every person, firm, or corporation engaged in the business of buying, selling, distributing, exchanging, and/or delivering automotive accessories, including radios designed for exclusive use in automobiles, parts, tires, tools, batteries, and/or other automotive equipment or supplies or any of such commodities at wholesale shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business in this State, and shall pay for such license an annual tax for each location where such business is carried on as follows: Defined.

In unincorporated communities and in cities or towns of less than 2,500 population	$ 25.00
In cities or towns of 2,500 and less than 5,000 population	30.00
In cities or towns of 5,000 and less than 10,000 population	50.00
In cities or towns of 10,000 and less than 20,000 population	75.00
In cities or towns of 20,000 and less than 30,000 population	100.00
In cities or towns of 30,000 population or more	125.00

Tax based on population.

Provided, any person, firm, or corporation engaged in the business enumerated in this section and having no located place of business, but selling to retail dealers by use of some form of vehicle, shall obtain from the Commissioner of Revenue a State-wide license for the privilege of engaging in such business in this State, and shall pay for such license an annual tax for each vehicle used in carrying on such business fifty dollars ($50.00). State-wide license for persons having no located place of business. Amount of tax.

(a) For the purpose of this section, the word "wholesale" shall apply to manufacturers, jobbers, and such others who sell to retail dealers, except manufacturers of batteries. "Wholesale" defined.

(b) No additional license tax under this subsection shall be levied upon or collected from any employee, agent, or salesman whose employer or principal has paid the tax for each location levied in this subsection. No tax on employees where employer has paid tax.

Local units may tax.

(c) Counties, cities, and towns may levy a license tax on each place of business located therein, taxed under this subsection, not in excess of one-half of that levied by the State, with the exception that the minimum tax may be as much as ten dollars ($10.00).

Additional tax not required of dealers paying wholesalers' tax.

(d) No person, firm, or corporation paying the wholesalers' tax as levied in Subsection three hereof shall be required to pay any additional tax under Subsection one of Section one hundred fifty-three for engaging in any of the types of business levied upon in said Subsection one.

Motor vehicle dealers.

(4) Motor Vehicle Dealers.

Defined.

Every person, firm, or corporation engaged in the business of buying, selling, distributing, servicing, storing and/or exchanging motor vehicles, trailers, semi-trailers, tires, tools, batteries, electrical equipment, lubricants, and/or automotive equipment, including radios designed for exclusive use in automobiles, and supplies in this State shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business in this State, and shall pay for such license an annual tax for each location where such business is carried on, as follows:

Tax based on population.

In unincorporated communities and in cities or towns of less than 1,000 population	$ 25.00
In cities or towns of 1,000 and less than 2,500 population	50.00
In cities or towns of 2,500 and less than 5,000 population	75.00
In cities or towns of 5,000 and less than 10,000 population	110.00
In cities or towns of 10,000 and less than 20,000 population	140.00
In cities or towns of 20,000 and less than 30,000 population	175.00
In cities or towns of 30,000 or more	200.00

Dealers in second hand vehicles.

Provided, that persons, firms, or corporations dealing in second-hand or used motor vehicles exclusively shall be liable for the tax as set out in the foregoing schedule unless such business is of a seasonal, temporary, transient, or itinerant nature, in which event

Amount of tax.

the tax shall be three hundred dollars ($300.00) for each location where such business is carried on.

Dealers in motor fuels and lubricants.

(a) Any person, firm, or corporation who or which deals exclusively in motor fuels and lubricants, and has paid the license tax levied under Subsection one of this section, shall not be subject to any license tax under Subsections two, three, and four of this section.

No tax on employee where employer has paid tax.

(b) No additional license tax under this subsection shall be levied upon or collected from any employee or salesman whose employer has paid the tax levied in this subsection; nor shall the tax

Semi-trailers excepted.

apply to dealers in semi-trailers weighing not more than five hundred pounds and carrying not more than one-thousand-pound load, and to be towed by passenger cars.

(c) No dealer shall be issued dealer's tags until the license tax levied under this subsection has been paid. Dealer's tags not issued until tax paid.

(d) Premises on which used cars are stored or sold when owned or operated by a licensed new car dealer under the same name shall not be deemed as a separate place of business when conducted within the corporate limits of any city or town in which such new car business is conducted. When used car lots not deemed separate place of business.

(e) Counties, cities, and towns may levy a license tax on each place of business located therein, taxed under this subsection, not in excess of one-fourth of that levied by the State, with the exception that the minimum tax may be as much as twenty dollars ($20.00): *Provided*, if such business is of a seasonal, temporary, transient, or itinerant nature, counties, cities, and towns may levy a tax of three hundred dollars ($300.00) for each location where such business is carried on. Local units may tax. Minimum. Tax on seasonal businesses.

SEC. 154. *Emigrant and employment agents.* Emigrant and employment agencies.

(a) Every person, firm, or corporation, either as agent or principal, engaged in soliciting, hiring, and/or contracting with laborers, male or female, in this State for employment out of the State shall apply for and obtain from the Commissioner of Revenue a State license for each county for the privilege of engaging in such business, and shall pay for such license a tax of five hundred dollars ($500.00) for each county in which such business is carried on. Emigrant agent defined. Amount of tax.

(b) Every person, firm, or corporation who or which engages in the business of securing employment for a person or persons and charging therefor a fee, commission, or other compensation shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business in this State, and shall pay for such license the following annual tax for each location in which such business is carried on: Employment agencies defined.

In unincorporated communities and in cities and towns of less than 2,500 population	$100.00
In cities or towns of 2,500 and less than 5,000 population	200.00
In cities or towns of 5,000 and less than 10,000 population	300.00
In cities or towns of 10,000 or more population	500.00

Tax based on population.

Provided, that this section shall not apply to any employment agency operated by the Federal Government, the State, any county or municipality, or whose sole business is procuring employees for work in the production and harvesting of farm crops within the State: *And provided further*, that under this section the tax on any employment agency whose sole business is the placement of teachers and/or other school employees and which has been approved by the State Superintendent of Public Instruction shall be twenty-five dollars ($25.00): *Provided further*, that Government agencies excepted. Tax on agencies for placement of teachers and school employees.

Tax on agencies for domestic servants and unregistered nurses.

the tax on employment agencies where the sole business is the placement of domestic servants or unregistered nurses for employment within the State shall be twenty-five dollars ($25.00).

Violations made misdemeanor.

(c) Any person, firm, or corporation violating the provisions of this section shall be guilty of a misdemeanor and fined, in addition to other penalties, not less than one thousand dollars ($1,000.00) and/or imprisoned, in the discretion of the court.

Local units may tax.

(d) Counties, cities and towns may levy a license tax on the business taxed under this section not in excess of that levied by the State.

Plumbers, heating contractors and electricians.

SEC. 155. *Plumbers, heating contractors, and electricians.*

Businesses enumerated.

Every person, firm, or corporation engaged in the business of a plumber, installing plumbing fixtures, piping or equipment, steam or gas fitter, or installing hot-air heating systems, or installing electrical equipment, or offering to perform such services, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business, and shall pay for such license the following tax based on population:

Tax based on population.

Municipalities of less than two thousand population	$ 5.00
Municipalities of more than two thousand and less than five thousand population	7.50
Municipalities of more than five thousand and less than ten thousand population	10.00
Municipalities of more than ten thousand and less than twenty thousand population	12.50
Municipalities of more than twenty thousand and less than thirty thousand population	15.00
Municipalities of more than thirty thousand and less than forty thousand population	17.50
Municipalities of more than forty thousand and less than fifty thousand population	20.00
Municipalities of more than fifty thousand population	25.00

Plumbers employing only one person pays half tax.

Provided, that when a licensed plumber employs only one additional person the tax shall be one-half: *Provided further*, that

Licensees hereunder exempt from certain other sections.

any person, firm, or corporation engaged exclusively in the business enumerated in and licensed under this section shall not be liable for the tax provided in Sections one hundred twenty-two and one hundred twenty-two and one-half and one hundred twenty-two and three-quarters of this Act. All plumbing inspectors in cities or towns shall make a monthly report to the Commissioner of Revenue of all installation or repair permits issued for plumbing or heating.

Reports to Commissioner by plumbing inspectors.

No county tax.

(a) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of the base license tax levied by the State.

Cities and towns may tax.

SEC. 156. *Trading stamps.* Trading stamps.

Every person, firm, or corporation engaged in the business of issuing, selling, and/or delivering trading stamps, checks, receipts, certificates, tokens, or other similar devices to persons, firms, or corporations engaged in trade or business, with the understanding or agreement, expressed or implied, that the same shall be presented or given by the latter to their patrons as a discount, bonus, premium, or as an inducement to secure trade or patronage, and that the person, firm, or corporation selling and/or delivering the same will give to the person presenting or promising the same, money or other thing of value, or any commission or preference in any way on account of the possession or presentation thereof, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business, and shall pay for such license a tax of two hundred dollars ($200.00). Defined. Amount of tax.

(a) This section shall not be construed to apply to a manufacturer or to a merchant who sells the goods, wares, or merchandise of such manufacturer, offering to present to the purchaser or customer a gift of certain value as an inducement to purchase such goods, wares or merchandise. Exception.

(b) Counties, cities, or towns may levy a license tax on the business taxed under this section and not in excess of that levied by the State. Local units may tax.

SEC. 157. *Process tax.* Process tax.

(a) In every indictment or criminal proceeding finally disposed of in the Superior Court, the party convicted or adjudged to pay the cost shall pay a tax of two dollars ($2.00): *Provided*, that this tax shall not be levied in cases where the county is required to pay the cost. Costs in criminal actions. Counties not liable.

(b) At the time of suing out the summons in a civil action in the Superior Court or other court of record, or the docketing of an appeal from the lower court in the Superior Court, the plaintiff or the appellant shall pay a tax of two dollars ($2.00): *Provided*, that this tax shall not be demanded of any plaintiff or appellant who has been duly authorized to sue or appeal in forma pauperis; but when in cases brought or in appeals in forma pauperis the costs are taxed against the defendants the tax shall be included in the bill of costs: *Provided*, that this tax shall not be levied in cases where the county is required to pay the cost and in tax foreclosure suits. Tax payable upon institution of civil actions. Suits "*in forma pauperis.*" County not liable. Tax foreclosures excepted.

(c) No county, city, or town, or other municipal corporation shall be required to pay said tax upon the institution of any action brought by it, but whenever such plaintiff shall recover in such action, the said tax shall be included in the bill of costs and collected from the defendant. Local units not liable for tax.

Tax charged as costs against losing party.

Fees of Clerk.

(d) In any case where the party has paid the aforesaid cost in a civil action and shall recover in the final decision of the case, then such cost so paid by him shall be retaxed against the losing party adjudged to pay the cost, plus five per cent (5%) which the Clerk of the Superior Court may retain for his services, and this shall be received by him, whether he is serving on a salary or fee basis, and if on a salary basis, shall be in addition to such salary.

Certain cases excepted.

(e) This section shall not apply to cases in the jurisdiction of magistrates' courts, whether civil or criminal, except upon appeals to the Superior Court from the judgment of such magistrate, and shall not apply for the docketing in the Superior Court of a transcript of a judgment rendered in any other court, whether of record or not.

Tax collected by Clerk.

Quarterly statements.

Contents.

Remittance of taxes collected.

Penalty on Clerk for violation.

(f) The tax provided for in this section shall be levied and assessed by the Clerk of the Superior Court or other court in all cases described herein; and on the first Monday in January, April, July, and October of each and every year he shall make to the Commissioner of Revenue a sworn statement and report in detail, showing the number of the case on the docket, the name of the plaintiff or appellant in civil action, or the defendant in criminal action, and accompany such report and statement with the amount of such taxes collected, or should have been collected, by him in the preceding three months. Any Clerk of the Superior Court failing to make the report and pay the amount of tax due under this section within the first fifteen days of the month in which such report is required to be made, shall be liable for a penalty of ten per cent (10%) on the amount of tax that may be due at the time such report should be made.

Morris Plan or industrial banks.

SEC. 158. *Morris Plan or industrial banks.*

Every person, firm, or corporation engaged in the business of operating a Morris Plan or industrial bank in the State shall apply for and obtain a State license from the Commissioner of Revenue for the privilege of engaging in such business, and shall pay for such license the following tax:

Tax based on resources.

When the total resources as of December thirty-first of the previous calendar year are—

Less than $250,000	$ 75.00
$250,000 and less than $500,000	150.00
$500,000 and less than $1,000,000	225.00
$1,000,000 and less than $2,000,000	300.00
$2,000,000 and less than $5,000,000	450.00
$5,000,000 and over	600.00

Calculation for part of year.

(a) Any such bank that shall begin business during the current tax year applicable to this article, the tax shall be calculated on the total resources at the beginning of business.

(b) Every person, firm, or corporation engaged in the busi-

ness of soliciting loans or deposits for a Morris Plan or other industrial bank not licensed as such by the State for the county in which such person, firm, or corporation solicits business shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business, and shall pay for such license a tax of fifty dollars ($50.00) per annum, in each county in which business is solicited. Tax on bank solicitors. Amount of tax.

(c) Counties shall not levy any license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one-half (½) of that levied by the State. No county tax. Cities and towns may tax.

SEC. 159. *Marriage license.* Marriage license.

There shall be levied on all marriage licenses a State license tax of three dollars on each such license, which shall be assessed and collected by the Register of Deeds of the county in which the license is issued. Amount of tax. Collection by Register of Deeds.

The Register of Deeds of each county shall submit to the Commissioner of Revenue, on the first Monday in January, April, July, and October of each year a sworn statement or report in detail, showing the names of the persons to whom such license has been issued during the preceding three months, and accompany such sworn report or statement with the amount of such State taxes collected by him or that should have been collected by him in the preceding three months. Quarterly statements of Register of Deeds.

The counties may levy one dollar ($1.00) upon such marriage license, to be assessed and collected by the Register of Deeds and accounted for to the county treasurer at the same time and in the same manner as he accounts to the Commissioner of Revenue for the State tax. Counties may tax.

SEC. 160. *Marble yards.* Marble yards.

Every person, firm, or corporation engaged in the business of manufacturing, erecting, jobbing, selling, or offering for sale monuments, marble tablets, gravestones or articles of like kind, or, if a non-resident, selling and erecting monuments, marble tablets, or gravestones at retail shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business in this State, and shall pay for such license the following tax: Defined. Tax based on population.

In unincorporated communities and cities or towns of less than 2,000 population	$15.00
In cities or towns of 2,000 and less than 5,000 population	25.00
In cities or towns of 5,000 and less than 10,000 population	30.00
In cities or towns of 10,000 and less than 15,000 population	40.00
In cities or towns of 15,000 and less than 20,000 population	50.00
In cities or towns of 20,000 and less than 25,000 population	60.00
In cities or towns of 25,000 population or over	70.00

Additional tax for salesmen.

In addition to the license tax levied in this section, an additional tax shall be paid by the person, firm, or corporation engaged in the business taxed under this section of ten dollars ($10.00) for each person soliciting or selling.

No county tax.

Cities and towns may tax.

Counties shall not levy any license tax on the business taxed under this section, but cities and towns in which the principal office or plant of any such business is located may levy a license tax not in excess of that levied by the State.

Manufacturers of ice cream.

SEC. 161. *Manufacturers of ice cream.*

(a) Every person, firm, or corporation engaged in the business of manufacturing or distributing ice cream at wholesale shall apply for and obtain from the Commissioner of Revenue a State license for each factory or place where manufactured and/or stored for distribution, and shall pay an annual State license tax of ten dollars ($10.00) in cities and towns of less than two thousand five hundred (2,500) population; twenty-five dollars ($25.00) in cities and towns having population between two thousand five hundred (2,500) and ten thousand (10,000), and in cities and towns having a population of more than ten thousand (10,000), fifty dollars ($50.00), and an additional tax of one-half cent for each gallon manufactured, sold, and/or distributed. Reports shall be made to the Commissioner of Revenue in such form as he may prescribe within the first ten days of each month covering all such gross sales for the previous month, and the additional tax herein levied shall be paid monthly at the time such reports are made.

Tax based on population.

Additional gallonage tax.

Reports to Commissioner.

"Ice cream" defined.

(b) For the purpose of this section the words "ice cream" shall apply to ice cream, frozen custards, sherbets, water ices, and/or similar frozen products.

Tax on retailer where manufacturer has not paid tax.

Amount.

(c) Every retail dealer selling at retail ice cream purchased from a manufacturer other than a manufacturer who has paid the tax imposed in Subsection (a) of this section shall pay an annual license tax for the privilege of doing business in this State of ten dollars ($10.00).

No county tax.

Cities and towns may tax.

(d) Counties shall not levy a license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of one-fourth of the above.

Chain stores.

SEC. 162. *Branch or chain stores.*

Defined.

Every person, firm, or corporation engaged in the business of operating or maintaining in this State, under the same general management, supervision, or ownership, two or more stores, or mercantile establishments where goods, wares, and/or merchandise is sold or offered for sale, or from which such goods, wares, and/or merchandise are sold and/or distributed at wholesale or retail, or controls by lease, either as lessor or lessee, or by contract, the manner in which any such store or stores are operated,

or the kinds, character, or brands of merchandise which are sold therein, shall be deemed a branch or chain store operator, and shall apply for and obtain from the Commissioner of Revenue a State license for the purpose of engaging in such business of a branch or chain store operator, and shall pay for such license a tax according to the following schedule:

Tax based on number of stores.

On each and every such store operated in this State in excess of one—

For not more than four additional stores, for each such additional store	$ 65.00
For five additional stores and not more than eight, for each such additional store	85.00
For nine additional stores and not more than twelve, for each such additional store	95.00
For thirteen additional stores and not more than sixteen, for each such additional store	105.00
For seventeen additional stores and not more than twenty, for each such additional store	115.00
For twenty-one additional stores and not more than thirty, for each such additional store	140.00
For thirty-one additional stores and not more than fifty, for each such additional store	175.00
For fifty-one additional stores and not more than one hundred, for each such additional store	200.00
For one hundred and one additional stores and not more than two hundred, for each such additional store	225.00
For two hundred and one additional stores and over, for each such additional store	250.00

"Chain store" further defined.

The term "chain store" as used in this section shall include stores operated under separate charters of incorporation, if there is common ownership of a majority of stock in such separately incorporated companies, and/or if there is similarity of name of such separately incorporated companies, and/or if such separately incorporated companies have the benefit in whole or in part of group purchase of merchandise, or of common management. And in like manner the term "chain store" shall apply to any group of stores where a majority interest is owned by an individual or partnership.

No county tax.

Cities and towns may tax.

Counties shall not levy a license tax on the business taxed under this section, but cities and towns may levy a license tax not in excess of fifty dollars ($50.00) for each chain store located in such city or town. For the purpose of ascertaining the particular unit in each chain of stores not subject to taxation by the State under this section, and therefore not liable for city license tax, the particular store in which the principal office of the chain in this State is located shall be designated as the unit in the chain not subject to this tax.

Branch containing principal office excepted.

Prorating tax to various units.

In enforcing the provisions of this section, the Commissioner of Revenue may prorate the total amount of tax for chain to the several units and the amount so prorated may be recovered from each unit in the chain in the same way as other taxes levied in this Act.

Motor vehicle and equipment dealers excepted.

This section shall not apply to retail or wholesale dealers in motor vehicles and automotive equipment and supply dealers at wholesale who are not liable for tax hereunder on account of the sale of other merchandise.

Wholesale distributors of motor fuels.

SEC. 162½. *Wholesale distributors of motor fuels.*

Every person, firm, or corporation engaged in the business of distributing or selling at wholesale any motor fuels in this State shall apply to the Commissioner for an additional annual license to engage in such business, and shall pay for such privilege an additional annual license tax determined and measured by the number of pumps owned or leased by the distributor or wholesaler through which such motor fuels are sold, at retail, according to the following schedule:

Tax based on number of pumps.

For the first 100 pumps	$ 4.00 per pump
For 101 additional pumps and not more than 200 pumps	5.00 per pump
For 201 additional pumps and not more than 300 pumps	6.00 per pump
For 301 additional pumps and not more than 400 pumps	7.00 per pump
For 401 additional pumps and not more than 500 pumps	8.00 per pump
For 501 additional pumps and not more than 600 pumps	9.00 per pump
For all over 600 pumps	10.00 per pump

Agreements for assumption of tax by persons not subject declared void.

Shifting tax made misdemeanor.

Any contract or agreement, oral or written, express or implied by the terms or the effects of which the tax herein imposed shall be passed on directly or indirectly to any person, firm, or corporation not engaged in the business hereby taxed is hereby declared to be against the public policy of this State and null and void, and any person, firm, or corporation negotiating such an agreement, or receiving the benefits thereof, shall be guilty of a misdemeanor and fined or imprisoned in the discretion of the court.

Tax additional to others imposed by Act.

The tax herein imposed shall be in addition to all other taxes imposed by this Act or under any other laws.

Local units may not tax.

Counties, cities and towns shall not levy any tax by reason of the additional tax imposed by this section, but this section

shall in no way affect the right given to counties, cities, and towns to levy taxes under Section one hundred fifty-three of this Act. Right of cities and towns to tax under Sec. 153 unaffected.

The business taxed under this section shall not be taxed under Section one hundred sixty-two of this Act. Sec. 162 not applicable.

SEC. 163. *Patent rights and formulas.* Patent rights and formulas.

Every person, firm, or corporation engaged in the business of selling or offering for sale any patent right or formula shall apply in advance and obtain from the Commissioner of Revenue a separate State license for each and every county in this State where such patent right or formula is to be sold or offered for sale, and shall pay for each such separate license a tax of ten dollars ($10.00). License for each county. Amount of tax.

Counties, cities, or towns may levy a license on the business taxed under this section not in excess of the taxes levied by the State. Local units may tax.

SEC. 166. *Tax on seals affixed by officers.* Tax on seals affixed by officers.

Whenever the Seal of the State, of the State Treasurer, the Secretary of State, or of any other public officer required by law to keep a seal (not including clerks of courts, notaries public, and other county officers) shall be affixed to any paper, the tax to be paid by the party applying for same shall be as follows:

For the Great Seal of the State, on any commission ..... $2.50 Great Seal of State.

For the Great Seal of the State on warrants of extradition for fugitives from justice from other states, the same fee and seal tax shall be collected from the State making the requisition which is charged in this State for like service. Extraditions.

For the Seal of the State Department, to be collected by the Secretary of State ..... 1.00 State Department Seal.

For the Seal of the State Treasurer, to be collected by him 1.00 State Treasurer's Seal.

For a scroll, when used in the absence of a seal, the tax shall be on the scroll, and the same as for the seal.

(a) All officers shall keep a true, full, and accurate account of the number of times any of such seals or scrolls are used, and shall deliver to the Governor of the State a sworn statement thereof. Scrolls. Statements to Governor.

(b) All seals affixed for the use of any county of the State, used on the commissions of officers of the National Guard, and any other public officer not having a salary, under the pension law, or under any process of court, shall be exempt from taxation, or to any commission issued by the Governor to any person in the employ of the State, or to be employed by the State. Exemptions.

Junk dealers license.

SEC. 168. Every person, firm, or corporation engaged in the business of buying and/or selling or dealing in what is commonly known as junk, including scrap metals, glass, waste paper, waste burlap, waste cloth and cordage of every nature, kind and description, shall apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business in this State and shall pay for such license an annual tax for each location where such business is carried on, according to the following schedule:

Tax based on population.

In unincorporated communities and in cities or towns of less than 2,500 population	$ 25.00
In cities or towns of 2,500 and less than 5,000 population	30.00
In cities or towns of 5,000 and less than 10,000 population	50.00
In cities or towns of 10,000 and less than 20,000 population	75.00
In cities or towns of 20,000 and less than 30,000 population	100.00
In cities or towns of 30,000 population or more	125.00

Tax on dealers within radius of two miles of city corporate limits.

Provided, that if any person, firm, or corporation shall engage in the business enumerated in this section within a radius of two miles of the corporate limits of any city or town in this State, he or it shall pay a tax based on the population of such city or town according to the schedule above set out. Counties, cities and towns may levy a license tax not in excess of one-half of that levied by the State; *provided, however*, that any person, firm, or corporation dealing solely in waste paper shall not be liable for said tax.

Local units may tax.

Exemption.

Administrative provisions.

ADMINISTRATIVE PROVISIONS

SEC. 181. *Unlawful to operate without license.*

Unlawful to operate without license.

When a license tax is required by law, and whenever the General Assembly shall levy a license tax on any business, trade, employment, or profession, or for doing any act, it shall be unlawful for any person, firm, or corporation without a license to engage in such business, trade, employment, profession, or do the act; and when such tax is imposed it shall be lawful to grant a license for the business, trade, employment, or for doing the act; and no person, firm, or corporation shall be allowed the privilege of exercising any business, trade, employment, profession, or the doing of any act taxed in this schedule throughout the State under one license, except under a State-wide license.

SEC. 182. *Manner of obtaining license from the Commissioner of Revenue.*

Application to Commissioner for license.

(a) Every person, firm, or corporation desiring to obtain a State license for the privilege of engaging in any business, trade, employment, profession, or of the doing of any act for which a State license is required, shall, unless otherwise provided by law, make application therefor in writing to the Commissioner of Revenue, in which shall be stated the county, city, or town and the definite place therein where the business, trade, employment, or profession is to be exercised; the name and resident address of the applicant, whether the applicant is an individual, firm, or corporation; the nature of the business, trade, employment, or profession; number of years applicant has prosecuted such business, trade, employment, or profession in this State, and such other information as may be required by the Commissioner of Revenue. The application shall be accompanied by the license tax prescribed in this article.

Contents of application.

Tax payable to accompany application.

Issuance of license.

(b) Upon receipt of the application for a State license with the tax prescribed by this article, the Commissioner of Revenue, if satisfied of its correctness, shall issue a State license to the applicant to engage in the business, trade, employment, or profession in the name of and at the place set out in the application. No license issued by the Commissioner of Revenue shall be valid or have any legal effect unless and until the tax prescribed by law has been paid, and the fact of such shall appear on the face of the license.

License not valid until tax paid.

SEC. 183. *Persons, firms, and corporations engaged in more than one business to pay tax on each.*

Separate license for each business engaged in.

Where any person, firm, or corporation is engaged in more than one business, trade, employment, or profession which is made under the provisions of this article subject to State license taxes, such persons, firms, or corporations shall pay the license tax prescribed in this article for each separate business, trade, employment, or profession.

SEC. 184. *Effect of change in name of firm.*

Change within firm not deemed commencing business.

No change in the name of a firm, partnership, or corporation, nor the taking in of a new partner, nor the withdrawal of one or more of the firm, shall be considered as commencing business; but if any one or more of the partners remain in the firm, or if there is change in ownership of less than a majority of the stock, if a corporation, the business shall be regarded as continuing.

SEC. 185. *License may be changed when place of business is changed.*

Consent of Commissioner for licensee to change location.

When a person, firm, or corporation has obtained a State license to engage in any business, trade, employment, or profession at any definite location in a county, and desires to remove to another location in the same county, the Commissioner of Revenue may, upon proper application, grant such person, firm, or corporation permission to make such move, and may endorse upon the State license his approval of change in location.

SEC. 186. *Property used in a licensed business not exempt from taxation.*

Property of licensee not exempt from other forms of taxation.

A State license, issued under any of the provisions of this article shall not be construed to exempt from other forms of taxation the property employed in such licensed business, trade, employment, or profession.

SEC. 187. *Engaging in business without a license.*

Due date of license taxes.

(a) All State license taxes under this article or schedule, unless otherwise provided for, shall be due and payable annually on or before the first day of June of each year, or at the date of engaging in such business, trade, employment and/or profession, or doing the act.

Continuing business after expiration of license made misdemeanor.

(b) If any person, firm, or corporation shall continue the business, trade, employment, or profession, or to do the act, after the expiration of a license previously issued, without obtaining a new license, he or it shall be guilty of a misdemeanor, and upon conviction shall be fined and/or imprisoned in the discretion of the court, but the fine shall not be less than twenty per cent (20%) of the tax in addition to the tax and the costs; and if such failure to apply for and obtain a new license be continued, such person, firm, or corporation shall pay additional tax of five per centum (5%) of the amount of the State license tax which was due and payable on the first day of June of the current year, in addition to the State license tax imposed by this article, for each and every thirty days that such State license tax remains unpaid from the date that same was due and payable, and such additional tax shall be assessed by the Commissioner of Revenue and paid with the State license tax, and shall become a part of the State license tax. The penalties for delayed payment hereinbefore provided shall not impair the obligation to procure a license in advance or modify any of the pains and penalties for failure to do so.

Additional penalties for continued refusal to obtain new license.

Penalties not to impair obligation to obtain license.

Applicable to county licenses.

The provisions of this section shall apply to taxes levied by the counties of the State under authority of this Act in the

same manner and to the same extent as they apply to taxes levied by the State.

Engaging in business without license made misdemeanor.

(c) If any person, firm, or corporation shall commence to exercise any privilege or to promote any business, trade, employment, or profession, or to do any act requiring a State license under this article without such State license, he or it shall be guilty of a misdemeanor, and shall be fined and/or imprisoned in the discretion of the court; and if such failure, neglect, or refusal to apply for and obtain such State license be continued, such person, firm, or corporation shall pay an additional tax of five per centum (5%) of the amount of such State license tax which was due and payable at the commencement of the business, trade, employment or profession, or doing the act, in addition to the State license tax imposed by this article, for each and every thirty (30) days that such State license tax remains unpaid from the date that same was due and payable, and such additional tax shall be assessed by the Commissioner of Revenue and paid with the State license tax and shall become a part of the State license tax.

Additional penalty for persistent refusal to obtain license.

Certification by Commissioner to Sheriffs as to delinquents.

(d) If any person, firm, or corporation shall fail, refuse, or neglect to make immediate payment of any taxes due and payable under this article, additional taxes, and/or any penalties imposed pursuant thereto, upon demand, the Commissioner of Revenue shall certify the same to the Sheriff of the county in which such delinquent lives or has his place of business, and such Sheriff shall have the power and shall levy upon any personal or real property owned by such delinquent person, firm, or corporation, and sell the same for the payment of the said tax or taxes, penalty and costs, in the same manner as provided by law for the levy and sale of property for the collection of other taxes; and if sufficient property is not found, the said Sheriff or deputy commissioner shall swear out a warrant before some justice of the peace or recorder in the county for the violation of the provisions of this Act and as provided in this Act.

Levy and sale of property of delinquents by Sheriff.

Warrant issued in event sufficient property not found.

SEC. 188. *Each day's continuance in business without a State license a separate offense.*

Each day a separate offense.

Each and every day that any person, firm, or corporation shall continue to exercise or engage in any business, trade, employment, or profession, or do any act in violation of the provisions of this article, shall be and constitute a distinct and a separate offense.

Duties of Commissioner.

SEC. 189. *Duties of the Commissioner of Revenue.*

(a) Except where otherwise provided, the Commissioner of Revenue shall be the duly authorized agent of this State for

Issuance of licenses and collection of taxes.

the issuing of all State licenses and the collection of all license taxes under this article, and it shall be his duty and the duty of his deputies to make diligent inquiry to ascertain whether all persons, firms, or corporations in the various counties of the State who are taxable under the provisions of this article have applied for the State license and paid the tax thereon levied.

Maintain supply of forms.

(b) The Commissioner of Revenue shall continually keep in his possession a sufficient supply of blank State license certificates, with corresponding sheets and duplicates consecutively

Stamping licenses.

numbered; shall stamp across each State license certificate that is to be good and valid in each and every county of the State the words "State-wide license," and shall stamp or imprint on each and every license certificate the words "issued by the Commissioner of Revenue."

Regulations as to duplicate licenses.

(c) Neither the Commissioner of Revenue nor any of his deputies shall issue any duplicate license unless expressly authorized to do so by a provision of this article or schedule, and unless the original license is lost or has become so mutilated as to be illegible, and in such cases the Commissioner of Revenue is authorized to issue a duplicate certificate for which the tax is paid, and shall stamp upon its face "duplicate."

SEC. 190. *License to be procured before beginning business.*

License to be procured and tax paid before commencing business.

(a) Every person, firm, or corporation engaging in any business, trade, and/or profession, or doing any act for which a State license is required and a tax is to be paid under the provisions of this article or schedule, shall, annually in advance, on or before the first day of June of each year, or before engaging in such business, trade, and/or profession, or doing the act, apply for and obtain from the Commissioner of Revenue a State license for the privilege of engaging in such business, trade, and/or profession, or doing such act, and shall pay the tax levied therefor.

Posting of licenses.

(b) Licenses shall be kept posted where business is carried on. No person, firm, or corporation shall engage in any business, trade, and/or profession, or do the act for which a State license is required in this article or schedule, without having such State license posted conspicuously at the place where such business, trade, and/or profession is carried on; and if the business, trade, and/or profession is such that license cannot be so posted, then the itinerant licensee shall have such license required by this article or schedule in his actual possession at the time of carrying on such business, trade, and/or profession, or doing the act named in this article or schedule, or a duplicate thereof.

(c) Any person, firm, or corporation failing, neglecting, or refusing to have the State license required under this article or schedule posted conspicuously at the place of business for which the license was obtained, or to have the same or a duplicate thereof in actual possession if an itinerant, shall pay an additional tax of twenty-five dollars ($25.00) for each and every separate offense, and each day's failure, neglect, or refusal shall constitute a separate offense. Penalty for failure to properly post license.

SEC. 191. *Sheriff and city clerk to report.*

The Sheriff of each county and the Clerk of the Board of Aldermen of each city or town in the State shall, on or before the fifteenth day of June of each year, make a report to the Commissioner of Revenue, containing the names and the business, trade, and/or the profession of every person, firm, or corporation in his county or city who or which is required to apply for and obtain a State license under the provisions of this article or schedule, and upon such forms as shall be provided and in such detail as may be required by the Commissioner of Revenue. Reports required of city and county officers.

ARTICLE III

SCHEDULE C

Schedule C.

FRANCHISE TAX

Franchise tax.

SEC. 201. *Defining taxes in this article.*

The taxes levied and assessed in this article or schedule shall be paid as specifically herein provided, and shall be for the privilege of engaging in or carrying on the business or doing the act named; and, if taxpayer be a corporation, shall be a tax also for the continuance of its corporate rights and privileges granted under its charter, if incorporated in this State, or by reason of any act of domestication if incorporated in another state, and such taxes and taxpayers shall be subject to other pertinent regulations mentioned in this Act. The taxes levied in this article or schedule shall be for the fiscal year of the State in which said taxes become due, and the lien of such taxes shall attach annually to all real estate of the taxpayer within the State on the date that such taxes are due and payable; and said lien shall continue until such taxes, with any interest, penalty and costs which shall accrue thereon shall have been paid. Franchise taxes defined. Collectible annually. Constitute continuing lien.

SEC. 202. *Franchise or privilege tax on railroads.*

Every person, firm, or corporation, domestic or foreign, owning and/or operating a railroad in this State shall, in addition Tax on railroads.

to all other taxes levied and assessed in the State, pay annually to the Commissioner of Revenue a franchise, license, or privilege tax for the privilege of engaging in such railroad business within the State of North Carolina, as follows:

Copy of report to State Board of Assessments to be furnished to Commissioner.

(a) Such person, firm or corporation shall during the month of June each year furnish to the Commissioner of Revenue a copy of the report and statement required to be made to the State Board of Assessment by the Machinery Act in effect at the time such report is due, and such other and further information as the Commissioner of Revenue may require.

Tax levied upon value of property within State.

(b) The value upon which the tax herein levied shall be assessed by the Commissioner of Revenue and the measure of the extent to which every such railroad company is carrying on intrastate commerce within the State of North Carolina shall be the value of the total property, tangible and intangible, in this State, for each such railroad company, as assessed for ad valorem taxation during the calendar year in which such report is due.

Amount of tax.

(c) The franchise or privilege tax which every such railroad company shall pay for the privilege of carrying on or engaging in intrastate commerce within this State shall be seventy-five one-hundredths of one per cent (75/100%) of the value ascertained as above by the Commissioner of Revenue,

Time for payment.

and tax shall be due and payable within thirty days after date of notice of such tax.

Collection of tax and penalties upon failure to make report.

(d) If any such person, firm, or corporation shall fail, neglect, or refuse to make and deliver the report or statements provided for in this section, the Commissioner of Revenue shall estimate, from the reports and records on file with the State Board of Assessment, the value upon which the amount of tax due by such company under this section shall be computed, and shall assess the franchise or privilege tax upon such estimate, and shall collect the same, together with such penalties herein imposed for failure to make the report and statement.

Intent of Act to tax intrastate commerce, within State.

(e) It is the intention of this section to levy upon railroad companies a license, franchise, or privilege tax for the privilege of engaging in intrastate commerce carried on wholly within this State, and not a part of interstate commerce; that the tax provided for in this section is not intended to be a tax for the privilege of engaging in interstate commerce, nor is it intended to be a tax on the business of interstate commerce, nor is it intended to be a tax having any relation to the interstate or foreign business or commerce in which any such railroad company may be engaged in addition to its business in this State.

(f) No county, city or town shall levy a license, franchise, or privilege tax on the business taxed under this section. Local units may not tax.

SEC. 203. *Franchise or privilege tax, electric light, power, street railway, gas, water, sewerage, and other similar businesses not otherwise taxed.* Public utilities.

(1) Every person, firm, or corporation, domestic or foreign, other than municipal corporations, engaged in the business of furnishing electricity, electric lights, current, power or gas, or owning and/or operating a water or public sewerage system, or owning and/or operating a street railway, street bus or similar street transportation system for the transportation of freight or passengers for hire, shall, within thirty days after the first day of January, April, July and October of each year, make and deliver to the Commissioner of Revenue, upon such forms and blanks as required by him, a report verified by the oath of the officer or authorized agent making such report and statement, containing the following information: Enumerated. Verified quarterly reports to Commissioner. Contents.

(a) The total gross receipts for the three months ending the last day of the month immediately preceding such return from such business within and without this State. Total receipts in and out of State.

(b) The total gross receipts for the same period from such business within this State. Receipts within State.

(c) The total gross receipts from the commodities or services described in this section sold to any other person, firm, or corporation engaged in selling such commodities or services to the public, and actually sold by such vendee to the public for consumption and tax paid to this State by the vendee, together with the name of such vendee, with the amount sold and the price received therefor. Gross receipts from commodities sold.

(d) The total amount and price paid for such commodities or services purchased from others engaged in the above named business in this State, and the name or names of the vendor. Other information.

(2) From the total gross receipts within this State there shall be deducted the gross receipts reported in Subsection (1) (c) of this section: *Provided*, that this deduction shall not be allowed where the sale of such commodities were made to any person, firm, or corporation or municipality which is exempted by law from the payment of the tax herein imposed upon such commodities when sold or used by it. Deduction from gross receipts of sales of commodities. Exception.

(3) On every such person, firm or corporation there is levied an annual franchise or privilege tax of six per cent (6%), payable quarterly, of the total gross receipts derived from such business within this State, after the deductions allowed as herein provided for, which said tax shall be for the privilege Tax of 6% on gross receipts after deductions.

of carrying on or engaging in the business named in this State, and shall be paid to the Commissioner of Revenue at the time of filing the report herein provided for: *Provided*, the tax upon privately owned water companies shall be four per cent (4%) of the total gross receipts derived from such business within this State: *Provided further*, the tax on gas companies shall be at the rate of four per cent (4%) upon the first twenty-five thousand dollars ($25,000.00) of the total gross receipts, and the tax on all gross receipts in excess of twenty-five thousand dollars ($25,000.00) shall be at the rate of six per cent (6%).

Tax of 4% on private water companies.

Graduated tax on gas companies.

Penalty for failure to file report and pay tax.

(4) Any person, firm, or corporation failing to file report and pay tax found to be due in accordance with the provisions of this section at the time herein provided for shall, in addition to all other penalties prescribed by this Act, pay an additional tax of ten per cent (10%) and interest at the rate of six per cent (6%) per annum on the total amount of tax due and additional tax incurred, which said additional tax shall in no case be less than two dollars ($2.00), and shall be added to the tax, together with interest accrued, and shall become an integral part of the tax.

Annual report to include list of gross receipts from all properties owned.

(5) The report herein required of gross receipts within and without the State, shall include the total gross receipts for the period stated of all properties owned and operated by the reporting person, firm, or corporation on the first day of each calendar quarter year, whether operated by it for the previous annual period, or whether intermediately acquired by purchase or lease, it being the intent and purpose of this section to measure the amount of privilege or franchise tax in each calendar quarter year with reference to the gross receipts of the property operated for the previous calendar quarter year and to fix liability for the payment of the tax on the owner, operator, or lessor on the first day of January, April, July and October of each year.

Intent of section.

Double taxation under Sections 210 and 211, avoided.

(6) Companies taxed under this section shall not be required to pay the franchise tax imposed by Section two hundred ten or two hundred eleven of this article, unless the tax levied by Sections two hundred ten and two hundred eleven of this article exceed the tax levied in this section, and no county shall impose a franchise or privilege tax upon the business taxed under this section, and no city or town shall impose a greater privilege or license tax upon such companies than the aggregate privilege or license tax which is now imposed by any such city or town.

No county tax.

Tax of cities and towns.

Pullman cars, etc.

SEC. 204. *Franchise or privilege tax on Pullman, sleeping, chair, and dining cars.*

(1) Every person, firm, or corporation domestic or foreign,

engaged in the business of operating in this State any Pullman, sleeping, chair, dining or other similar cars, where an extra charge is made for the use or occupancy of same, shall annually, on or before the first day of August, make and deliver to the Commissioner of Revenue, upon such forms, blanks, and in such manner as may be required by him, a full, accurate, and true report and statement, verified by oath of the officer or authorized agent making such report, of the total gross receipts of such person, firm, or corporation from such business wholly within this State during the year ending the thirteenth day of June of the current year.

Annual report to Commissioner as to gross receipts for preceding year.

Verified.

(2) Such person, firm, or corporation shall pay an annual privilege, license, or franchise tax of ten per cent (10%) of the total gross receipts derived from such business wholly within this State; which said tax shall be paid for the privilege of carrying on or engaging in the business named in this State, and shall be paid to the Commissioner of Revenue at the time of filing the report and statements herein provided for.

Tax of 10% on gross receipts in State.

(3) No county, city or town shall impose any franchise or privilege tax on the business taxed under this section.

Local units may not tax.

SEC. 205. *Franchise or privilege tax on express companies.*

Express companies.

(1) Every person, firm, or corporation, domestic or foreign, engaged in this State in the business of an express company as defined in this Act, shall, in addition to a copy of the report required by the Machinery Act then in effect, annually, on or before the first day of August, make and deliver to the Commissioner of Revenue a report and statement, verified by the oath of the officer or authorized agent making such report or statement, containing the following information as of the thirtieth day of June of the current year:

Annual verified report to Commissioner.

Contents.

(a) The average amount of invested capital employed within and without the State in such business during the year ending the thirtieth day of June of the current year.

Invested capital in and out of State.

(b) The total net income earned on such invested capital from such business during the year ending the thirtieth day of June of the current year.

Net income.

(c) The total number of miles of railroad lines or other common carriers over which such express companies operate in this State during the year ending the thirtieth day of June of the current year.

Mileage in State.

(2) Every such person, firm, or corporation, domestic or foreign, engaged in such express business within this State shall pay to the Commissioner of Revenue, at the time of filing the report required in this section, the following annual franchise

Method of computing tax.

or privilege tax for the privilege of engaging in such express business within this State:

Tax of $15 per mile where net income is 6% or less.

Where the net income of the average capital invested during the year ending the thirtieth day of June of the current year is six per cent (6%) or less, fifteen dollars ($15.00) per mile of railroad lines over which operated.

6% to 8%, $21 per mile.

More than six per cent (6%) and less than eight per cent (8%), twenty-one dollars ($21.00) per mile of railroad lines over which operated.

Over 8%, $25 per mile.

Eight per cent (8%) and over, twenty-five dollars ($25.00) per mile of railroad lines over which operated.

Companies without previous receipts pay $7.50 per mile.

(3) Every such person, firm, or corporation, domestic or foreign, who or which engages in such business without having had previous receipts upon which to levy the franchise or privilege tax, shall report to the Commissioner at the time of beginning business in this State and pay for such privilege of engaging in business in this State a tax of seven dollars and fifty cents ($7.50) per mile of the railroad lines over which operated or proposed to operate.

No county tax.

(4) Counties shall not levy a franchise, privilege or license tax on the business taxed under this section; and municipalities may levy an annual franchise, privilege, or license tax on such express companies for the privilege of doing business within the municipal limits as follows:

Tax of cities and towns based on population.

Municipalities of less than 500 population	$ 5.00
Municipalities of 500 and less than 1,000 population	10.00
Municipalities of 1,000 and less than 5,000 population	20.00
Municipalities of 5,000 and less than 10,000 population	30.00
Municipalities of 10,000 and less than 20,000 population	50.00
Municipalities of 20,000 and over	75.00

Telegraph companies.

SEC. 206. *Franchise or privilege tax—telegraph companies.*

Annual report to Commissioner.

(1) Every person, firm or corporation, domestic or foreign, engaged in operating the apparatus necessary for communication by telegraph between points within this State, shall annually, on or before the first day of August, make and deliver to the Commissioner of Revenue, upon such forms and in such manner as required by him, a report verified by the oath of the officer or authorized agent making such report and statement, containing the following information:

Contents.

Total gross receipts in and out of State.

(a) The total gross receipts from business within and without this State for the entire calendar year next preceding due date on such return.

(b) The total gross receipts for the same period from business within this State. Within State.

(2) On every such person, firm or corporation there is hereby levied an annual franchise or privilege tax of six per cent (6%) of the total gross receipts derived from business within this State. Such gross receipts shall include all charges for services, all rentals, fees, and all other similar charges from business which both originates and terminates in the State of North Carolina, whether such business in the course of transmission goes outside this State or not. The tax herein levied shall be for the privilege of carrying on or engaging in the business named in this State, and shall be paid to the Commissioner of Revenue at the time of filing the report herein provided for: *Provided*, that the tax on the first one thousand dollars ($1,000.00) of gross receipts of any such telegraph company shall be at the rate of four per cent (4%), and all gross receipts in excess of said first one thousand dollars ($1,000.00) shall be taxed at the rate of six per cent (6%). Tax of 6% on total gross receipts. Gross receipts defined. Privilege tax. Graduated tax.

(3) The report herein required shall include the total gross receipts for the period stated of all properties owned, leased, controlled and/or over which operated by such person, firm or corporation in this State. Annual report to include list of all receipts.

(4) Any person, firm or corporation failing to file report and pay tax found to be due in accordance with the provisions of this section at the time herein provided for shall, in addition to all other penalties prescribed in this Act, pay an additional tax of ten per cent (10%) and interest at the rate of six per cent (6%) per annum on the total amount of tax due and additional tax incurred, which said additional tax shall in no case be less than two dollars ($2.00), and shall be added to the tax, together with interest accrued, and shall become an integral part of the tax. Penalty for failure to file report and pay tax.

(5) (a) Nothing in this section shall be construed to authorize the imposition of any tax upon interstate commerce. No tax on interstate commerce.

(b) Counties shall not levy a franchise, privilege, or license tax on the business taxable under this section, and municipalities may levy the following license tax: No county tax.

Less than 5,000 population	$10.00
5,000 and less than 10,000 population	15.00
10,000 and less than 20,000 population	20.00
20,000 population and over	50.00

Tax of cities and towns based on population.

Telephone companies.

SEC. 207. *Franchise or privilege tax—telephone companies.*

(1) Every person, firm or corporation, domestic or foreign, owning and/or operating a telephone business for the transmis- Verified quarterly returns to Commissioner as to gross receipts.

sion of messages and/or conversations to, from, through, in or across this State, shall, within thirty days after the first day of January, April, July and October of each year, make and deliver to the Commissioner of Revenue a quarterly return, verified by the oath of the officer or authorized agent making such return, showing the total amount of gross receipts of such telephone company for the three months ending the last day of the month immediately preceding such return, and pay, at the time of making such return, the franchise, license or privilege tax herein imposed.

Tax of 6% on gross receipts in State.

Gross receipts defined.

Credit on tax of amount paid for purchase of municipal franchises.

(2) An annual franchise or privilege tax of six per cent (6%), payable quarterly, on the gross receipts of such telephone company, is herein imposed for the privilege of engaging in such business within this State. Such gross receipts shall include all rentals, other similar charges, and all tolls received from business which both originates and terminates in the State of North Carolina, whether such business in the course of transmission goes outside of this State or not: *Provided*, where any city or town in the State has heretofore sold at public auction to the highest bidder the right, license and/or privilege of engaging in such business in such city or town, based upon a percentage of gross revenue of such telephone company, and is now collecting and receiving therefor a revenue tax not exceeding one per cent of such revenues, the amount so paid by such operating company, upon being certified by the treasurer of such municipality to the Commissioner of Revenue, shall be from time to time credited by the Commissioner of Revenue to such telephone company upon the tax imposed by the State under this section of this Act.

Penalty for failure to make returns and pay taxes.

(3) Any such person, firm or corporation, domestic or foreign, who or which fails, neglects, or refuses to make the return, and/or pay the tax at the time provided for in this section, shall pay an additional tax of ten per cent (10%) and interest at the rate of six per cent (6%) per annum on the total amount of tax due and additional tax incurred, which said additional tax shall not be less than two dollars ($2.00) in any case, and shall be added to the tax, together with the interest accrued, and shall become an integral part of the tax.

No tax on interstate commerce.

(4) Nothing in this section shall be construed to authorize the imposition of any tax upon interstate commerce.

Local units may not tax.

(5) Counties, cities and towns shall not levy any franchise, license, or privilege tax on the business taxed under this section.

Insurance companies.

SEC. 208. *Franchise or privilege tax—insurance companies.*

Enumerated.

Every person, firm, or corporation, domestic or foreign, which contracts on his, their, or its account to issue any policies for or agreements for life, fire, marine, surety, guaranty, fidelity, employers' liability, liability, credit, health, accident, livestock, plate

glass, tornado, automobile, automatic sprinkler, burglary, steam boiler, and all other forms of insurance shall apply for and obtain from the Insurance Commissioner a State license for the privilege of engaging in such business within this State and shall pay for such State license the following tax:

Tax based on kinds of insurance.

(1) The annual license or privilege tax, due and payable on or before the first day of April of each year, shall be for each such license issued to:

An insurance rate-making company or association	$350.00
A life insurance company or association	250.00
A fire insurance company or association of companies operating a separate or distinct plant of agencies	200.00
An accident or health insurance company or association	200.00
A marine insurance company or association	200.00
A fidelity or surety company or association	200.00
A plate-glass insurance company or association	200.00
A boiler insurance company or association	200.00
A foreign mutual insurance company or association	200.00
A domestic farmers' mutual insurance company or association	10.00
A fraternal order	25.00
A bond, investment, dividend, guaranty, registry, title guaranty, credit, fidelity, liability, or debenture company or association	200.00
All other insurance companies or associations except domestic mutual burial associations	200.00

Domestic burial associations.

On all domestic mutual burial associations, and on each additional branch thereof operated (and where any mutual burial associations has designated more than one undertaker to operate for it), the tax shall be in each instance as upon a separate branch thereof:

Tax based on membership.

With a membership of less than 5,000	$ 50.00
With a membership of 5,000 or less than 15,000	75.00
With a membership of 15,000 or more	100.00

One-half tax on smaller companies.

(a) When the paid-in capital stock and/or surplus of a life insurance company does not exceed one hundred thousand dollars ($100,000.00) the license tax levied in Subsection one shall be one-half the amount named.

License fees subject to C. S. 6320 as to additional classes of business.

All such license fees shall be subject to the provisions of Section six thousand three hundred and twenty of the Consolidated Statutes as to additional classes of business.

Semi-annual reports by insurance companies to Insurance Commissioner.

(2) Every such person, firm, or corporation, domestic or foreign, engaged in the business hereinbefore described in this section, shall by its general agent, president, or secretary, within the first fifteen days of February and August of each year, file with the Insurance Commissioner of this State a full, accurate, and

Verified.

correct report and statement, verified by the oath of such general agent or president, secretary, or some officer at the home or head office of the company or association in this country, of the total

Reports to show gross premium receipts in State.

gross premium receipts including premiums or deposits on annuity contracts derived from such insurance business from the residents of this State, or on property located therein, during the preceding six months of the previous calendar year, and at the time of making such report and statement shall, except as hereinafter provided, pay to the Insurance Commissioner, in addition to other license taxes imposed in this section, a license or privilege tax for the privilege of engaging in such business in this State, a license tax of two and one-half per cent (2½%) upon the amount of such gross premium receipts, with no deduction for dividends, whether returned in cash or allowed in payment or reduction of premiums or for additional insurance, and without any deduction except for return premiums or return assessments. The rate of tax on premiums for liability under the Workmen's Compensation Act for all insurance companies collecting such premiums shall be four per cent (4%) on all premiums collected in this State on such liability insurance, and a corresponding rate of tax shall be collected from self-insurers: *Provided*, if any general agent shall file with the Insurance Commissioner a sworn statement showing that one-fifth of the entire assets of his company are invested and are maintained in any of the following securities or property, to-wit: bonds of this State or any county, city, town, or school district of this State; or in loans to citizens or corporations or organizations in this State; or stock in corporations of this State; or property situated within this State, then such tax shall be three-fourths per centum of such gross premium receipts: *Provided*, that the provisions herein as to tax and premium receipts shall not apply to domestic farmers' mutual fire insurance companies, nor to fraternal orders or societies that do not operate for a profit and do not issue policies on any person except its members.

Additional tax of 2½% on such receipts.

Tax on Workmen's Compensation Insurance, 4% of such receipts.

Also from self insurers.

Lower tax if 20% of assets invested in certain local securities.

Companies excepted.

License tax on agents.

(3) Every special or district agent, manager, or organizer, general agent, local canvassing agent, resident or non-resident adjuster, or non-resident broker, representing any company referred to in this section, shall on or before the first day of April of each year apply for and obtain from the Insurance Commissioner a license for the privilege of engaging in such business in this State, and shall pay for such license for each company represented the following annual tax:

Tax based on type of agent.

Special or district agent, manager, or organizer (including seal)	$ 5.00
General Agent	6.00
Local or canvassing agent (including seal)	2.50
Resident fire insurance adjuster	2.00
Non-resident fire insurance adjuster	5.00
Non-resident broker	10.00

But any such company having assets invested and maintained in this State as provided in Subsection three of this section shall pay the following license fees: for

Special agent (including seal) $2.50
Local canvassing agent (including seal) 1.00

Lower tax under certain conditions.

Any person not licensed as an insurance agent on April first, one thousand nine hundred and thirty-three, and applying for license thereafter, shall pay an examination fee of ten dollars ($10.00), to be paid to the Insurance Commissioner as other license fees and taxes: *Provided,* agents for farm mutual fire insurance companies shall not be required to take an examination and pay the examination fee.

Examination fee of new agents.

Exceptions.

In the event a license issued under this subsection is lost or destroyed, the Insurance Commissioner, for a fee of fifty cents ($0.50) may certify to its issuance, giving number, date, and form, which may be used by the original party named thereon in lieu of the said original license. There shall be no charge for the seal affixed to such certificate of said license.

Duplicate licenses.

(4) Any person, firm, or corporation, domestic or foreign, exchanging reciprocal or inter-insurance contracts as provided herein, shall pay through their attorneys an annual license fee, due and payable on the first day of April of each year, of two hundred dollars ($200.00) and two and one-half per cent (2½%) of the gross premium deposits, and also all other regular fees prescribed by law, to be reported, assessed, and paid as other gross premium taxes provided for in this section: *Provided,* the tax on Workmen's Compensation Insurance premiums shall be the same as that fixed in Subsection two of this Act.

Reciprocals taxed at $200 and 2½% of gross premium receipts.

Compensation insurance, 4%.

(5) Companies paying the tax levied in this section shall not be liable for franchise tax on their capital stock, and no county, city, or town shall be allowed to impose any additional tax, license, or fee, other than ad valorem taxes, upon any insurance company or association paying the tax levied in this section. The license fees and taxes imposed in this section shall be paid to the Insurance Commissioner.

No capital stock or local unit taxes imposed.

Taxes payable to Insurance Commissioner.

SEC. 209. *Obsolete.*

SEC. 210. *Franchise or privilege tax—domestic and foreign corporations.*

Domestic and foreign corporations.

(1) Every corporation, domestic and foreign, incorporated or, by any Act, domesticated under the laws of this State, except as otherwise provided in this article or schedule, shall, on or before the thirty-first day of July of each year, make and deliver to the Commissioner of Revenue in such form as he may prescribe a full, accurate and complete report and statement verified by the oath of its duly authorized officers, containing such facts and information as may be required by the Commissioner of Revenue as shown

Annual report to Commissioner.

Verified.

by the books and records of the corporation as at the close of its last calendar or fiscal year next preceding July thirty-first of the year in which report is due.

Capital stock, surplus and undivided profits determined.

(2) Every such corporation taxed under this section shall determine the total amount of its issued and outstanding capital stock, surplus and undivided profits; no reservation or allocation from surplus or undivided profits shall be allowed other than for definite and accrued legal liabilities, except as herein provided; taxes accrued, dividends declared and reserves for depreciation of tangible assets as permitted for income tax purposes shall be treated as deductable liabilities. Every such corporation, the capital stock of which is inadequate for its business needs, which is a subsidiary of another corporation or closely affiliated therewith by stock ownership, shall include its indebtedness owed to, endorsed or guaranteed by the parent or affiliated corporation (including a co-subsidiary of the same parent corporation) in the amount of capital stock, surplus and undivided profits in determining the basis for its franchise tax liability under this Act. Treasury stock shall not be considered in computing the capital stock, surplus and undivided profits as the basis for franchise tax, but shall be excluded proportionately from said capital stock, surplus and undivided profits as the case may be upon the basis and to the extent of the cost thereof.

Deductible liabilities.

Method of determining franchise tax liability.

Treasury stock excluded.

In determining the total amount of the capital stock, surplus and undivided profits, as herein defined, effect shall be given to the final judgment of any court approving a corporate reorganization entered prior to July first of any calendar year and since the close of the corporation's last calendar or fiscal year next preceding.

Judgments approving corporate reorganizations.

(3) After ascertaining and determining the amount of its capital stock, surplus and undivided profits, as herein provided, every such corporation permitted to do business in this State shall allocate to such business in this State a proportion of the total amount of its capital stock, surplus and undivided profits as herein defined, according to the following rules:

Rules for allocation.

(A) If the principal business of a company in this State is manufacturing, or if it is in any form of collecting, buying, assembling, or processing goods and materials within this State the total amount of capital stock, surplus and undivided profits of such corporation shall be apportioned to North Carolina on the basis of the ratio obtained by taking the arithmetical average of the following two ratios:

Ratio of net income apportioned to State.

(a) The ratio of the book value of its real estate and tangible personal property in this State on the date of the close of the calendar or fiscal year of such corporation in the income year is to the book value of its entire real estate and tangible personal property then owned by it, with no deductions on account of encumbrances thereon.

Ratio of entire property to that in State.

Encumbrances not deductible.

(b) The ratio of the total cost of manufacturing, collecting, buying, assembling, or processing within this State during the income year to the total cost of manufacturing, collecting, assembling, or processing within and without the State. The term "cost of manufacturing, collecting, buying, assembling, or processing within and without this State" as used herein shall be interpreted in a manner to conform as nearly as may be to the best accounting practice in the trade or business. Unless in the opinion of the Commissioner of Revenue the peculiar circumstances in any case justify a different basis, this term shall be generally interpreted to include as elements of cost within and without this State the following:

Ratio of total manufacturing costs to those in State.

"Cost" defined.

Elements of cost.

(c) The total cost of all goods, materials, and supplies used in manufacturing, assembling, or processing, regardless of where purchased.

Materials.

(d) The total wages and salaries paid or accrued during the income year in such manufacturing, assembling, or processing activities.

Wages and salaries.

(e) The total overhead or manufacturing burden properly assignable acording to good accounting practice to such manufacturing, assembling, or processing activities, not including, however, property, privilege, stamp or other taxes.

Overhead.

(f) The term "book value" as used herein shall be defined to mean original cost plus additions and improvements less reserve for depreciation on the date of the close of the calendar or fiscal year of such company, unless in the opinion of the Commissioner of Revenue the peculiar circumstances in any case justify a different basis.

"Book value" defined.

(g) The words "tangible personal property" shall be taken to mean corporeal personal property such as machinery, tools, implements, goods, wares and merchandise, and shall not be taken to mean cash on hand or in bank, shares of stock, bonds, notes, accounts receivable, credits, special privileges, franchises, good will, or evidence of an interest in property and evidences of debt.

"Tangible personal property" defined.

(h) The word "manufacturing" shall be defined as mining and all processes of fabricating or of curing raw material.

"Manufacturing" defined.

(B) If the principal business of a company in this State is selling, distributing, or dealing in tangible personal property within this State, the total amount of capital stock, surplus and undivided profits of such company shall be apportioned to North Carolina on the basis of the ratio obtained by taking the arithmetical average of the following two ratios:

Ratio of income of distributors apportioned to State.

(a) The ratio of the book value of its real estate and tangible personal property in this State on the date of the close of the calendar or fiscal year of such company in the income year is to the book value of its entire real estate and tangible personal

Ratio of book value of entire property to that in State.

Encumbrances not deductible.

property then owned by it, with no deduction on account of encumbrances thereon.

Ratio of total sales to those in State.

(b) The ratio of the total sales made through or by offices, agencies, or branches located in North Carolina during the income year to the total sales made everywhere during said income year.

"Sales" defined.

(c) The word "sales" as used in this section shall be defined as sale or rental of real estate and sale or rental of tangible properties.

"Book value" defined.

(d) The term "book value" as used herein shall be defined to mean original cost plus additions and improvements less reserve for depreciation on the date of the close of the calendar or fiscal year of such company, unless in the opinion of the Commissioner of Revenue the peculiar circumstances in any case justify a different basis.

"Tangible personal property" defined.

(e) The words "tangible personal property" shall be taken to mean corporeal personal property such as machinery, tools, implements, goods, wares and merchandise, and shall not be taken to mean cash on hand or in bank, shares of stock, bonds, notes, accounts receivable, credits, special privileges, franchises, good will, or evidence of an interest in property and evidences of debt.

Ratio of companies dealing in intangibles.

(C) If a company deriving profits principally from sources other than holding or sale of tangible property, such proportion as its gross receipts in this State during the income year is to its gross receipts for such year within and without the State.

"Gross receipts" defined.

(a) The words "gross receipts" as used in this section shall be taken to mean and include the entire receipts for business done by such company.

Proportion so allocated, deemed the portion liable for tax.

The proportion of the total capital stock, surplus and undivided profits of each such corporation so allocated shall be deemed to be the proportion of the total capital stock, surplus and undivided profits of each such corporation used in connection with its business in this State and liable for annual franchise tax under this section.

Amounts so determined not to be less than assessed value of assets within State.

(4) After determining the proportion of its total capital stock, surplus and undivided profits as set out in Subsection three of this section, which amount so determined shall in no case be less than the total assessed value (including total gross valuation returned for taxation of intangible personal property) of all the real and personal property in this State of each such corporation for the year in which report is due nor less than its total actual investment in tangible property in this State, every corporation taxed under this section shall annually pay to the Commissioner of Revenue, at the time the report and statement are due, a franchise or privilege tax, which is hereby levied, at the rate of one dollar and seventy-five cents ($1.75) per one thousand dollars ($1,000.00) of the total amount of capital stock, surplus and undi-

Annual payments.

Rate.

vided profits as herein provided. The tax imposed in this section shall in no case be less than ten dollars ($10.00) and shall be for the privilege of carrying on, doing business, and/or the continuance of articles of incorporation or domestication of each such corporation in this State: *Provided*, that the basis for the franchise tax on all corporations, eighty per cent (80%) of whose outstanding capital stock is owned by persons or corporations to whom or to which such stock was issued prior to January first, one thousand nine hundred thirty-five, in part payment or settlement of their respective deposits in any closed bank of the State of North Carolina, shall be the total assessed value of the real and tangible personal property of such corporation in this State for the year in which report and statement is due under the provisions of this section. The term "total actual investment in tangible property" as used in this section shall be construed to mean the total original purchase price or consideration to the reporting taxpayer of its tangible properties, including real estate, in this State plus additions and improvements thereto less reserve for depreciation as permitted for income tax purposes, and also less any indebtedness incurred and existing by virtue of the purchase of any real estate and any permanent improvements made thereon.

Minimum tax.

Basis of tax where stock represented by deposits in closed banks.

"Total actual investment in tangible property" defined.

(5) The report, statement and tax required by this section shall be in addition to all other reports required or taxes levied and assessed in this State.

Taxes, reports, etc. declared additional.

(a) Counties, cities and towns shall not levy a franchise tax on corporations taxed under this section.

Local units may not tax.

SEC. 211. *New corporations.*

New corporations.

(1) No corporation, domestic or foreign, shall be permitted to do business in this State without paying the franchise tax levied in this article or schedule. When such domestic corporation is incorporated under laws of this State or such foreign corporation is domesticated in this State, and has not heretofore done business in the State, upon which a report might be filed under Section two hundred ten notice in writing thereof shall be given to the Commissioner of Revenue by such corporation, and it shall be competent for the Commissioner of Revenue and he is hereby authorized to obtain such information concerning the basis for the levy of the tax from such other information he can obtain and to that end may require of such corporation to furnish him such a report as may clearly reflect and disclose the amount of its issued and outstanding capital stock, surplus and undivided profits as set out in Section two hundred ten, and information as to such other factors as may be necessary to determine the basis of the tax. When this has been determined, in accordance with the provisions of Section two hundred ten as far as the same may be applicable, and upon the information which he has secured, the Commissioner of Revenue shall thereupon determine the amount of franchise tax to be paid by such new corporation, and said tax shall be due

Payment of franchise tax required.

Notice to Commissioner of new corporations.

Information to be furnished for levy.

Reports.

Determination of tax.

When due. and payable within thirty days from date of notice thereof from the Commissioner of Revenue, which tax, in no event, shall be less than a ratable proportion of the tax for the franchise privilege extended for one year on the determined basis, nor less than the minimum tax of ten dollars ($10.00); the tax levied in this section shall be for the period from date of incorporation or domestication to June thirtieth next following.

Minimum taxes.

Penalty for failure to serve notice. (2) Any corporation failing to notify the Commissioner of Revenue as provided for in Subsection (1) of this section within sixty days after date of the incorporation or domestication of such corporation in this State shall be subject to all penalties and remedies imposed for failure to file any report required under this article or schedule.

Section applicable only to new corporations. (3) The provisions of this section shall apply only to corporations newly incorporated or newly domesticated in this State.

Additional taxes. SEC. 212. *Review of returns—additional taxes.*

Review of returns. Upon receipt of any report, statement and tax as provided by this article or schedule, the Commissioner of Revenue shall cause same to be reviewed and examined for the purpose of ascertaining if same constitute a true and correct return as required by this article or schedule. If the Commissioner of Revenue discovers from the examination of any return, or otherwise, that the franchise or privilege tax of any taxpayer has not been correctly determined, computed and/or paid, he may at any time within three years after the time when the return was due, give notice in writing, to the taxpayer of such deficiency plus interest at the rate of six per cent (6%) per annum from date when return was due, and any over-payment of the tax shall be returned to the taxpayer within thirty days after it is ascertained. In the case of any taxpayer who has failed to file any return or statement required under this article or schedule, the limitation of three years shall not apply and the Commissioner of Revenue shall, from facts within his knowledge, prepare tentative returns for such delinquent taxpayer, and shall assess the taxes, penalties and interest upon these findings; this provision shall not be construed to relieve said taxpayer from liability for a return or from any penalties and remedies imposed for failure to file proper return. Any taxpayer feeling aggrieved by such proposed assessment shall be entitled to a hearing before the Commissioner of Revenue, if within thirty days after date of notice of such proposed assessment, the taxpayer shall apply in writing for such hearing, explaining in detail his objections to same. If no request for such hearing is made, such proposed assessment shall be final and conclusive. If the request for hearing is made, the taxpayer shall be heard by the Commissioner of Revenue, and after such hearing the Commissioner of Revenue shall render his decision. The taxpayer shall be advised of his decision by mail, and such amount shall be due and payable within ten days after date of notice thereof.

Notice of deficiency.

Over-payment returned.

Commissioner may prepare tentative return.

Penalties unaffected.

Right of hearing granted on application.

Decision of Commissioner.

Notice of decision.

SEC. 213. *Corporations not mentioned.*

Exemptions enumerated.

None of the taxes levied in Sections two hundred ten and two hundred eleven of this article shall apply to religious, fraternal, benevolent, or educational corporations not operating for a profit; nor to banking and insurance companies; nor to business leagues, boards of trade, clubs organized and operated exclusively for pleasure, recreation and other non-profitable purposes, civic leagues operated exclusively for the promotion of social welfare, or chambers of commerce and merchants associations not organized for profit, and no part of the net earnings of which inures to the benefit of any private stockholder, individual, or other corporations:

Claims for exemption.

Other corporations already taxed, protected.

Provided, that each such corporation must, upon request by the Commissioner of Revenue, establish in writing its claim for exemption from said provisions. The provisions of Sections two hundred ten and two hundred eleven shall apply to electric light, power, street railway, gas, water, Pullman, sleeping and dining car, express, telegraph, telephone, motor bus, and truck corporations to the extent and only to the extent that the franchise tax levied in Sections two hundred ten and two hundred eleven exceed the franchise taxes levied in other sections of this article or schedule. The exemptions in this section shall apply only to those corporations specifically mentioned, and no other.

SEC. 214. *Penalties.*

Penalty for failure to pay tax.

(1) Any person, firm, or corporation, domestic or foreign, failing to pay the license, privilege, or franchise tax levied and assessed under this article or schedule when due and payable shall, in addition to all other penalties prescribed in this Act, pay an additional tax of ten per cent (10%) and interest at the rate of six per cent (6%) per annum on the total amount of tax due and additional tax incurred, which said additional tax shall not be less than two dollars ($2.00) in any case, and shall be added to the tax, together with the interest accrued, and shall become an integral part of the tax.

Penalty for failure to file report when due.

(2) Any person, firm, or corporation failing to file the report required in this article or schedule on or before the date specified shall pay a penalty of ten per cent (10%) of the tax found to be due, which penalty shall in no case be less than five dollars ($5.00).

SEC. 215. *Franchise or privilege taxes; when payable.*

Taxes payable to Commissioner annually.

(1) Every corporation, domestic or foreign, from which a report is required by law to be made to the Commissioner of Revenue shall, unless otherwise provided, pay to said commissioner annually the franchise tax as required by Sections two hundred ten and two hundred eleven of this Act.

Forms to be furnished by Commissioner to corporations.

(2) It shall be the duty of the Commissioner of Revenue to mail to the registered address, last listed with the Commissioner of Revenue, of every such corporation, report forms to be used in complying with the provisions of this article or schedule, which forms shall contain a copy of so much of this and other sections of this Act as relates to penalties for failure to pay said taxes.

Remittance of tax by corporations.

(3) It shall be the duty of the treasurer or other officer having charge of any such corporation, domestic or foreign, upon which a tax is herein imposed, to transmit the amount of the tax due to the Commissioner of Revenue within the time provided by law for payment of same.

Double taxation avoided as to individuals.

(4) Individual stockholders in any corporation, joint stock association, limited partnership, or company paying a tax on its entire capital stock shall not be required to list or pay ad valorem tax on the shares of stock owned by them.

Same as to corporations holding other corporate stocks.

(5) Corporations in the State legally holding shares of stock in other corporations, upon which the tax has been paid to the State by the corporation issuing the same, shall not be required to list or pay an ad valorem tax on said shares of stock.

SEC. 216. *Franchise or privilege tax-extensions.*

Commissioner, for cause shown, may extend time within which to file returns.

(1) The return required by this article or schedule shall be due on or before the dates specified unless written application for extension of time in which to file, containing reasons therefor, is made to the Commissioner of Revenue on or before due date of such return. The Commissioner of Revenue for good cause may extend the time for filing any return under this article or schedule, provided interest at the rate of six per cent (6%) per annum from date return is due is paid upon the total amount of tax due.

Revisions.

(2) The provisions of this Act with respect to revision and appeal shall apply to the tax so assessed. The limitation of three years to the assessment of such tax or additional tax shall not apply to the assessment of additional taxes upon fraudulent return. Any officer or agent of a corporation who shall knowingly make a fraudulent return under this article or schedule shall be guilty of a misdemeanor and shall be fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) and/or imprisoned at the discretion of the court.

Fraudulent return made misdemeanor.

Power of attorney.

SEC. 217. *Power of attorney.*

The Commissioner of Revenue shall have the authority to require a proper power of attorney of each and every agent for any taxpayer under this Act.

ARTICLE IV

SCHEDULE D

Schedule D.

INCOME TAX

Income tax.

SEC. 300. *Short title.*

Short title.

This article shall be known and may be cited as the income tax article of one thousand nine hundred and thirty-nine.

SEC. 301. *Purpose.*

Purpose of Act.

The general purpose of this Act is to impose a tax for the use of the State Government upon the net income in excess of the exemption herein allowed, for the calendar year one thousand nine hundred and thirty-nine and each year thereafter collectible in the year one thousand nine hundred and forty and annually thereafter:

Subjects of tax.

(a) Of every resident of the State.

Residents.

(b) Of every domestic corporation.

Domestic corporations.

(c) Of every foreign corporation and of every non-resident individual having a business or agency in this State or income from property owned, and from every business, trade, profession or occupation carried on in this State.

Non-resident individuals and corporations having income in State.

(d) The tax imposed upon the net income of corporations in this article is in addition to all other taxes imposed under this Act.

Corporate income tax additional to franchise tax.

Definitions.

SEC. 302. *Definitions.*

For the purpose of this article, and unless otherwise required by the context:

1. The word "taxpayer" includes any individual, corporation, or fiduciary subject to the tax imposed by this article.

"Taxpayer."

2. The word "individual" means a natural person.

"Individual."

3. A "head of a household" is an individual who actually maintains and supports in one household in this State one or more individuals who are closely related by blood relationship, relationship by marriage, or by adoption, and whose right to exercise family control and provide for these dependent individuals is based on some moral or legal obligation.

"Head of household."

4. The word "fiduciary" means a guardian, trustee, executor, administrator, receiver, conservator, or any person, whether individual or corporation, acting in any fiduciary capacity for any person, estate or trust.

"Fiduciary."

5. The word "person" includes individuals, fiduciaries, partnerships.

"Person."

"Corporation." 6. The word "corporation" includes joint stock companies or associations and insurance companies.

"Domestic corporation." 7. The words "domestic corporation" mean any corporation organized under the laws of this State.

"Foreign corporation." 8. The words "foreign corporation" mean any corporation other than a domestic corporation.

"Tax year." 9. The words "tax year" mean the calendar year in which the tax is payable.

"Income year." 10. The words "income year" mean the calendar year or the fiscal year upon the basis of which the net income is computed under this article; if no fiscal year has been established, they mean the calendar year.

"Fiscal year." 11. The words "fiscal year" mean an income year, ending on the last day of any month other than December.

"Paid." "Paid or accrued." "Received." "Received or accrued." 12. The word "paid", for the purposes of the deductions under this article, means "paid or accrued" and the words "paid or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this article. The word "received", for the purpose of the computation of the net income under this article, means "received or accrued", and the words "received or accrued" shall be construed according to the method of accounting upon the basis of which the net income is computed under this article.

"Resident." 13. The word "resident" applies only to individuals, and includes, for the purpose of determining liability to the tax imposed by this article, with reference to the income of any income year, any individual who shall be a resident of the State on the first day of the tax year and shall include all income earned while a resident of this State.

"Foreign country." "United States." 14. The words "foreign country" mean any jurisdiction other than the one embraced within the United States. The words "United States", when used in a geographical sense, include the States, and territories of Alaska and Hawaii, the District of Columbia, and the possessions of the United States.

Imposition of tax.

IMPOSITION OF TAX

Individuals.

SEC. 310. *Individuals.*

Net income taxable.

A tax is hereby imposed upon every resident of the State, which tax shall be levied, collected and paid annually, with respect to the net income of the taxpayer as herein defined, and upon income earned within the State of every non-resident having a business or agency in this State or income from property owned and from every business, trade, profession or occupation carried on in this State, computed at the following rates, after deducting the exemptions provided in this article.

On the excess over the amount legally exempted, up to two thousand dollars, three per cent (3%). First $2,000, 3%.

On the excess above two thousand dollars, and up to four thousand dollars, four per cent (4%). To $4,000, 4%.

On the excess above four thousand dollars, and up to six thousand dollars, five per cent (5%). To $6,000, 5%.

On the excess over six thousand dollars, and up to ten thousand dollars, six per cent (6%). To $10,000, 6%.

On the excess over ten thousand dollars, seven per cent (7%). Over $10,000, 7%.

SEC. 311. *Corporations.*

I. Domestic Corporations. Domestic corporations.

Every corporation organized under the laws of this State shall pay annually an income tax equivalent to six per cent on the entire net income, as herein defined, received by such corporation during the income year. Tax of 6%.

II. Foreign Corporations. Foreign corporations.

Every foreign corporation doing business in this State shall pay annually an income tax equivalent to six per cent of a proportion of its entire net income, to be determined according to the following rules: Rules of collection.

1. If the principal business of a company in this State is manufacturing, or if it is any form of collecting, buying, assembling, or processing goods and materials within this State, the entire net income of such corporation shall be apportioned by North Carolina on the basis of the ratio obtained by taking the arithmetical average of the following two ratios: Ratio of net income apportioned to State.

(a) The ratio of the book value of its real estate and tangible personal property in this State on the date of the close of the calendar or the fiscal year of such corporation in the income year is to the book value of its entire real estate and tangible personal property then owned by it, with no deductions on account of encumbrances thereon. Ratio of entire property to that in State. Encumbrances not deductible.

(b) The ratio of the total cost of manufacturing, collecting, buying, assembling, or processing within this State during the income year to the total cost of manufacturing, collecting, buying, assembling, or processing within and without the State. The term "cost of manufacturing, collecting, buying, assembling, or processing within and without this State", as used herein, shall be interpreted in a manner to conform as nearly as may be to the best accounting practice in the trade or business. Unless in the opinion of the Commissioner of Revenue the peculiar circumstances in any case justify a different basis, this term shall be Ratio of total manufacturing costs to those in State. "Cost" defined.

Elements of cost.

generally interpreted to include as elements of cost within and without this State the following:

Materials.

(c) The total cost of all goods, materials, and supplies used in manufacturing, assembling, or processing, regardless of where purchased.

Salaries and wages.

(d) The total wages and salaries paid or accrued during the income year in such manufacturing, assembling or processing activities.

Overhead.

(e) The total overhead or manufacturing burden properly assignable according to good accounting practice to such manufacturing, assembling or processing activities. Not including, however, property, privilege, stamp, or other taxes.

"Book value" defined.

(f) The term "book value" as used herein shall be defined to mean original cost plus additions and improvements less reserve for depreciation on the date of the close of the calendar or fiscal year of such company, unless in the opinion of the Commissioner of Revenue the peculiar circumstances in any case justify a different basis.

"Tangible personal property" defined.

(g) The words "tangible personal property" shall be taken to mean corporeal personal property such as machinery, tools, implements, goods, wares and merchandise, and shall not be taken to mean cash on hand or in bank, shares of stock, bonds, notes, accounts receivable, credits, special privileges, franchises, good will, or evidence of an interest in property and evidences of debt.

"Manufacturing" defined.

(h) The word "manufacturing" shall be defined as mining and all processes of fabricating or of curing raw materials.

Ratio of income of distributors apportioned to State.

2. If the principal business of a company in this State is selling, distributing or dealing in tangible personal property within this State, the entire net income of such company shall be apportioned to North Carolina on the basis of the ratio obtained by taking the arithmetical average of the following two ratios.

Ratio of book value of entire property to that in State.

(a) The ratio of the book value of its real estate and tangible personal property in this State on the date of the close of the calendar or fiscal year of such company in the income year is to the book value of its entire real estate and tangible property then owned by it, with no deduction on account of encumbrances thereon.

Encumbrances not deductible.

Ratio of total sales to those in State.

(b) The ratio of the total sales made through or by offices, agencies, or branches located in North Carolina during the income year to the total sales made everywhere during said income year.

"Sales" defined.

(c) The word "sales" as used in this section shall be defined as sale or rental of real estate and sale or rental of tangible properties.

(d) The term "book value" as used herein shall be defined to mean original cost plus additions and improvements less reserve for depreciation on the date of the close of the calendar or fiscal year of such company, unless in the opinion of the Commissioner of Revenue the peculiar circumstances in any case justify a different basis. "Book value" defined.

(e) The words "tangible personal property" shall be taken to mean corporeal personal property such as machinery, tools, implements, goods, wares and merchandise, and shall not be taken to mean cash on hand or in bank, shares of stock, bonds, notes, accounts receivable, credits, special privileges, franchises, good will, or evidence of an interest in property and evidences of debt. "Tangible personal property" defined.

(f) Foreign insurance companies doing business in this State and returning premium receipts to the Insurance Commissioner, and paying the tax upon such premium receipts as provided in Section two hundred and eight of this article shall be exempt from this tax on income in so far as the income is derived from their insurance business. However, in case of a foreign insurance company owning real estate in this State from which rents are received it is required to file an income tax return reporting income received from such real estate in this State and take credit for actual expenses incurred in connection therewith. Exemption of insurance companies paying premium tax. Not applicable to rents from real estate.

3. If a company deriving profits principally from sources other than holding or sale of tangible property, such proportion as its gross receipts in this State during the income year is to its gross receipts for such year within and without the State. Ratio of companies dealing in intangibles.

(a) The words "gross receipts" as used in this section shall be taken to mean and include the entire receipts for business done by such company. "Gross receipts" defined.

SEC. 311½. *Income from stock in foreign corporations.*

Income from stock in foreign corporations, in cash dividends, received by individuals, fiduciaries, partnership (to be reported by partners on their individual returns) or corporations, resident in this State, or by non-resident fiduciary if held for a resident of this State, shall be reported and taxed as other income taxable under this article. Every individual, fiduciary, partnership, or corporation owning such shares of stock, and receiving dividends from same, shall report such income to the Commissioner of Revenue, at the time required by this article for reporting other income, and shall pay the tax herein imposed at the same time and in the same way as tax upon other income is payable. With respect to corporations paying a tax in this State on a proportionate part of their total income, the holder of shares of stock in such corporation shall pay on the total dividends received an amount equaling the percentage of the corporation's income on which it has not paid an income tax to the State of North Carolina for the year in which said dividends are received by the taxpayer. Income from stock in foreign corporations subject to tax. Reports to Commissioner. Credit allowed for income of corporations in this State.

Railroad and public service corporations.

SEC. 312. *Railroads and public-service corporations.*

Basis of determining net income is standard classification of accounting.

The basis of ascertaining the net income of every corporation engaged in the business of operating a steam, electric railroad, express service, telephone or telegraph business, or other form of public service, when such company is required by the Interstate Commerce Commission to keep records according to its standard classification of accounting, shall be the "net revenue from operations" of such corporation as shown by their records, kept in accordance with that standard classification of accounts when their business is wholly within this State, and when their business is in part within and in part without the State, their net income within this State shall be ascertained by taking their gross "operating revenues" within this State, including in their gross "operating revenues" within this State the equal mileage proportion within this State of their interstate business, and deducting from their gross "operating revenues" the proportionate average of "operating expense" or "operating ratio" for their whole business, as shown by the Interstate Commerce Commission standard classification of accounts:

Proportion of mileage in State.

Method of deducting operating expenses.

Provided, that if the standard classification of operating expenses prescribed by the Interstate Commerce Commission for railroads differs from the standard classification of operating expenses prescribed by the Interstate Commerce Commission for other public-service corporations, such other public-service corporations shall be entitled to the same operating expenses as prescribed for railroads. From the net operating income thus ascertained shall be deducted "uncollectible revenue" and taxes paid in this State for the income year other than income taxes, and the balance shall be deemed to be their net income taxable under this article. That in determining the taxable income of a corporation engaged in the business of operating a railroad under this section, in the case of a railroad located entirely within this State, the net operating income shall be increased or decreased to the extent of any credit or debit balance received or paid, as the case may be, on account of car or locomotive hire; and when any railroad is located partly within and partly without this State, the said net operating income shall be increased or decreased to the extent of an equal mileage proportion within this State of any credit or debit balance received or paid, as the case may be, on account of car or locomotive hire.

Uncollectible revenue and taxes may be deducted.

Net operating income.

"Interstate business" defined

For the purposes of this section the words "interstate business" shall mean, as to transportation companies, operating revenue earned within the State by reason of the interstate transportation of persons or property into, out of, or through this State, and as to transmission companies the interstate transmission of messages into, out of, or through the State.

"Equal mileage proportion" defined.

The words "equal mileage proportion within the State" shall mean the proportion of revenue received by the company opera-

ting in this State from interstate business as defined in the preceding paragraph, which the distance of movement over lines in this State bears to the total distance of movement over lines of the company receiving such revenue. If the Commissioner of Revenue shall find, with respect to any particular company, that its accounting records are not kept so as to reflect with exact accuracy such division of revenue by State lines as to each transaction involving interstate revenue, the Commissioner of Revenue may adopt such regulations, based upon averages, as will approximate with reasonable accuracy the proportion of interstate revenue actually earned upon lines in this State.

Supervision of Commissioner of Revenue over accounting records.

The words "proportionate average of 'operating expenses' or 'operating ratio' " shall mean the proportion of gross revenue of a company, on its whole business absorbed in operating expenses, as defined in the Interstate Commerce Commission classification of accounts.

"Proportion of gross revenue" defined.

In determining the taxable income of a railroad company operating two or more lines of railroad not physically connected, and when one of such railroad lines is located wholly within this State, the actual earnings and expenses of such line in this State, in so far as they may be severable, shall be used in determining net income taxable in this State.

Companies operating two or more lines.

With respect to leased lines operated in this State where the operating company pays a tax on the income earned on such leased lines, without deduction for lease rental, and on a sum properly allocable to such leased lines equal to the amount of lease rental paid, such lease rental shall not be taxable income against the lessor.

Leased lines.

All other public service corporations shall file under Section three hundred and eleven of this article.

Other public service corporations.

SEC. 313. *Taxable year.*

Taxable year as to 1939-1940 income.

The tax imposed by this Article for the year one thousand nine hundred and thirty-nine shall be assessed, collected, and paid in the year one thousand nine hundred and forty and for the year one thousand nine hundred and forty and years thereafter shall be assessed, collected, and paid in the year following the year for which the asessment is made.

SEC. 314. *Conditional and other exemptions.*

The following organizations shall be exempt from taxation under this article:

Organizations exempted.

1. Fraternal beneficiary societies, orders or associations.

Fraternal societies.

(a) Operating under the lodge system or for the exclusive benefit of the members of a fraternity itself operating under the lodge system, and

(b) Providing for the payment of life, sick, accident, or other benefits to the members of such society, order or association, or their dependents.

Building and loan associations and cooperative banks.

2. Building and loan associations and cooperative banks without capital stock, organized and operated for mutual purposes and without profit.

Cemetery, religious, charitable and other corporations.

3. Cemetery corporations and corporations organized for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual.

Business leagues, chambers of commerce, etc.

4. Business leagues, chambers of commerce, merchants' associations, or boards of trade not organized for profit, and no part of the net earnings of which inures to the benefit of any private stockholder or individual.

Civic organizations.

5. Civic leagues or organizationis not organized for profit, but operated exclusively for the promotion of social welfare.

Pleasure clubs.

6. Clubs organized and operated exclusively for pleasure, recreation, and other non-profitable purposes, no part of the net earnings of which inures to the benefit of any private stockholder or member.

Certain mutual companies.

7. Farmers' or other mutual hail, cyclone, or fire insurance companies, mutual ditch or irrigation companies, mutual or cooperative telephone companies, or like organizations of a purely local character the income of which consists solely of assessments, dues and fees collected from members for the sole purpose of meeting expenses.

Cooperative associations.

8. Farmers', fruit growers', or like organizations organized and operated as sales agents for the purpose of marketing the products of members and turning back to them the proceeds of sales, less the necessary selling expenses, on the basis of the quantity of product furnished by them.

Certain mutual associations.

9. Mutual associations formed under Consolidated Statutes five thousand two hundred and fifty-five et seq. (Chapter one hundred forty-four, Public Laws of one thousand nine hundred fifteen and amendments), formed to conduct agricultural business on the mutual plan; or to marketing associations organized under Sub-chapter five, Chapter ninety-three, Consolidated Statutes, Article XVI, Section five thousand two hundred fifty-nine (a) and following.

Fiduciaries.

Sec. 315. *Fiduciaries.*

The tax imposed by this article shall be imposed upon resident fiduciaries having in charge funds or property for the benefit of a resident of this State, and/or income earned in this State for

the benefit of a non-resident, and upon a non-resident fiduciary having in charge funds or property for the benefit of a resident of this State, which tax shall be levied, collected and paid annually with respect to: Levy of tax.

(a) That part of the net income of estates or trusts which has not become distributable during the income year. Income from estate.

(b) The net income received during the income year by deceased individuals who, at the time of death, were residents and who have died during the tax year or the income year without having made a return. Income of decedents.

(c) The entire net income of resident, insolvent, or incompetent individuals, whether or not any portion therof is held for the future use of the beneficiaries, where the fiduciary has complete charge of such net income. Income of insolvents and incompetents.

(d) The tax imposed upon a fiduciary by this article shall be a charge against the estate or trust. Tax a charge against estate.

SEC. 316. *Net income defined.*

The words "net income" mean the gross income of a taxpayer, less the deductions allowed by this article. "Net income" defined.

SEC. 317. *Gross income defined.*

1. The words "gross income" mean the income of a taxpayer derived from salaries, wages, or compensation for personal service, of whatever kind and in whatever form paid, or from professions, vocations, trades, business, commerce or sales, or dealings in poverty, whether real or personal, located in this or any other State or any other place, growing out of the ownership or use of or interest in such property, also from interest, rent, dividends, securities, or the transactions of any business carried on for gain or profit, or gains or profits, and income derived from any source whatever and in whatever form paid. The amount of all such items shall be included in the gross income of the income year in which received by the taxpayer, unless, under the methods of accounting permitted under this article, any such amounts are to be properly accounted for as of a different period. The term "gross income" as used in this article shall include the salaries of all constitutional State officials taking office after the date of the enactment of this article by election, reelection or appointment, and all Acts fixing the compensation of such constitutional State officials are hereby amended accordingly. The term "gross income" as used in this article shall include the salaries, wages, or other compensation received from the United States or its possessions by officials, or employees thereof, resident of this State, including persons in the military or naval forces of the United States: *Provided*, such income shall not be included in "Gross income" defined. Items included. Includes salaries of constitutional officers. Includes Federal salaries and compensation.

gross income, unless salaries, wages or other compensation received from the State of North Carolina, or any of its political subdivisions, is subjected to income taxes imposed by the United States.

Includes income from annuities.

The term "gross income" as used in this article shall include income from annuities based on three per cent (3%) of the consideration or cost of the annuity or contract as income yearly.

Items not included.

2. The words "gross income" do not include the following items, which shall be exempt from taxation under this article, but shall be reported in such form and manner as may be prescribed by the Commissioner of Revenue:

Proceeds of life insurance policies.

(a) The proceeds of life insurance policies and contracts paid upon the death of the insured to beneficiaries or to the estate of the insured.

Return premiums or surrender values.

(b) The amount received by the insured as a return of premium or premiums paid by him under life insurance endowment contracts, either during the term or at the maturity of the term mentioned in the contracts or upon surrender of the contract.

Property acquired by gift, devise or descent.

(c) The value of property acquired by gift, bequest, devise or descent (but the income from such property shall be included in gross income).

Interest on Government obligations.

(d) Interest upon the obligations of the United States or its possessions, or of the State of North Carolina, or of a political sub-division thereof: *Provided,* interest upon the obligations of the United States, shall not be excluded from gross income unless interest upon obligations of the State of North Carolina or any of its political subdivisions is excluded from income taxes imposed by the United States. Except that interest upon the obligations of the United States or its possessions, or of the State of North Carolina, or of a political subdivision thereof, shall in no case be included in the "gross income" of any banking corporation organized under the banking laws of North Carolina.

Accident and health benefits.

(e) Any amounts received through accident or health insurance or under the Workmen's Compensation Act, as compensation for personal injuries or sickness, plus the amount of any damages received, whether by suit or agreement, on account of such injuries or sickness.

As to domestic insurance companies.

(f) In case of domestic insurance companies or associations paying a tax on their gross premium receipts, in addition to the above, (a) the net addition required by law to be made within the taxable year to reserve funds, including the actual deposit of

Allocation to reserve funds.

sums with the Commissioner of Insurance or the Treasurer of the State, pursuant to the law, as additions to guarantee or reserve funds for the benefit of policyholders, and (b) the sums paid within the taxable year on policy and annuity contracts to policyholders.

SEC. 318. *Basis of return of net income.*

1. The net income of a taxpayer shall be computed in accordance with the method of accounting regularly employed in keeping the books of such taxpayer, but such method of accounting must be consistent with respect to both income and deductions, but if in any case such method does not clearly reflect the income, the computation shall be made in accordance with such method as in the opinion of the commissioner does clearly reflect the income, but shall follow as nearly as practicable the Federal practice, unless contrary to the context and intent of this article. Computation of net income by method of accounting used by taxpayers.

2. A taxpayer may, with the approval of the Commissioner of Revenue, and under such regulations as he may prescribe, change the income year from fiscal year to calendar year or otherwise, in which case his net income shall be computed upon the basis of such new income year: *Provided,* that such approval must be obtained from the commissioner at least thirty days prior to the end of such income year. Consent of Commissioner to change from fiscal to calendar year.

3. An individual carrying on business in partnership shall be liable for income tax only in his individual capacity, and shall include in his gross income, whether distributed or not, his distributive share of the net income of the partnership and dividends from foreign corporations for each income year. Partnership income based on distributive shares.

4. Every individual taxable under this article who is a beneficiary of an estate or trust shall include in his gross income the distributive share of the net income of the estate or trust received by him or distributable to him during the income year. Unless otherwise provided in the law, the will, the deed, or other instrument creating the estate, trust, or fiduciary relation, the net income shall be deemed to be distributed or distributable to the beneficiaries (including the fiduciary as a beneficiary, in the case of income accumulated for future distribution), ratable in proportion to their respective interest. Beneficiaries must return their shares of trust estates.

SEC. 318½ *Subsidiary corporations.*

The net income of a corporation which is a subsidiary of another corporation or closely affiliated therewith by stock ownership shall be determined by eliminating all payments to the parent corporation or affiliated corporations in excess of fair value and by including fair compensation to such foreign corporation for all commodities sold to or service performed for the parent corporation or affiliated corporations. For the purpose of determining such net income the commissioner may, in the absence of satisfactory evidence to the contrary, presume that an apportionment by reasonable rules of the consolidated net income of corporations participating in the filing of a consolidated return of net income to the Federal Government fairly reflects the net income taxable under this chapter, or may otherwise equitably determine such Determination of income of subsidiary corporations.

Apportionment between parent and subsidiary.

net income by reasonable rules of apportionment of the combined income of the subsidiary, its parent and affiliates or any thereof.

Disregard of debts owed to or guaranteed by parent corporation.

If the capital of a corporation which is a subsidiary of another corporation or closely affiliated therewith by stock ownership is inadequate for its business needs apart from credit extended or indebtedness guaranteed by the parent or affiliated corporation, the commissioner shall, in determining the net income of such corporation, disregard its indebtedness owed to or guaranteed by the parent or an affiliated corporation in determining the net income taxable under this article.

Information required in returns of subsidiary corporations.

Such subsidiary or affiliated corporation shall incorporate in its return required under this article such information as the commissioner may reasonably require for the determination of the net income taxable under this article, and failure to so incorporate such information or to furnish such additional information when required within thirty days shall subject the corporation and its officers to the penalties provided in Section three hundred thirty-six of this article for failure to file such return.

Penalties for failure.

SEC. 319. *Determination of gain or loss.*

Determination of gain or loss in disposition of property.

For the purpose of ascertaining the gain or loss from the sale or other disposition of property, real, personal, or mixed, the basis shall be, in the case of property acquired before January first, one thousand nine hundred and twenty-one, the fair market price or the value of such property as of that date and in all other cases the cost thereof. The cost of such property acquired prior to January first, one thousand nine hundred and twenty-one, would be used in all cases if such cost is known or determinable: *Provided*, that in the case of property which was included in the last preceding annual inventory used in determining net income in a return under this article, such inventory value shall be taken in lieu of costs or market value. The final distribution to the taxpayer of the assets of a corporation shall be treated as a sale of the stock of securities of the corporation owned by him, and the gain or loss shall be computed accordingly: *Provided*, no gain or loss shall be recognized upon the receipt of a corporation of property distributed in complete liquidation of another corporation, if the corporation receiving such property was on the date of the adoption of the plan of liquidation and has continued to be at all times until the receipt of the property the owner of stock (in such other corporation), possessiong at least eighty per centum (80%) of the total combined voting power of all classes of stock entitled to vote, and the owner of at least eighty per centum (80%) of the total number of shares of all other classes of stock (except non-voting stock which is limited and preferred as to dividends).

Final distribution of corporate assets treated as sale.

Recognition of gains or losses upon receipt of property in liquidation.

SEC. 320. *Exchanges of property.*

1. When property is exchanged for other property of like kind, the property received in exchange shall be considered as a conversion of assets from one form to another, from which no gain or loss shall be deemed to arise. No gain or loss in property exchanges.

2. In the case of the organization of a corporation, the stock or securities received shall be considered to take the place of property transferred therefor, and no gain or loss shall be deemed to arise therefrom. Same as to stock in new corporations.

3. When, in connection with the reorganization, merger or consolidation of a corporation, a taxpayer receives in place of stock or securities owned by him, new stock or securities, the basis of computing the gain or loss, if any, shall be, in case the stock or securities owned were acquired before January first, one thousand nine hundred and twenty-one, the fair market price of value thereof as of that date, and in all other cases the cost thereof. Computing gain or loss in reorganizations and mergers.

4. The basis of property received by a corporation upon a distribution in complete liquidation of another corporation within the meaning of Section three hundred and nineteen shall be the same as it would be in the hands of the transferor. Property received in complete liquidation.

SEC. 321. *Inventory.*

Whenever, in the opinion of the Commissioner of Revenue, it is necessary, in order clearly to determine the income of any taxpayer, inventories shall be taken by such taxpayer upon such basis as the Commissioner of Revenue may prescribe, conforming as nearly as may be to the best accounting practice in the trade or business and most clearly reflecting the income. Commissioner may direct taking of inventories.

SEC. 322. *Deductions.*

In computing net income there shall be allowed as deductions the following items: Deductions allowed.

1. All the ordinary and necessary expenses paid during the income year in carrying on any trade or business, including: Necessary expenses.

(a) As to individuals, reasonable wages of employees for services rendered in producing such income. Wages paid by individuals.

(b) As to partnerships, reasonable wages of employees and a reasonable allowance for co-partners or members of a firm, for services actually rendered in producing such income, the amount of such salary allowance to be included in the personal return of the co-partner receiving same. Wages of partnerships.

(c) As to corporations, wages of employees and salaries of officers, if reasonable in amount, for services actually rendered in producing such income. Salaries and wages of corporations.

Rentals for business property not owned.

2. Rentals or other payments required to be made as a condition of the continued use or possession for the purpose of the trade of property to which the taxpayer has not taken or is not taking title, or in which he has no equity.

Unearned discount and interest on debts.

3. Unearned discount and all interest paid during the income year on indebtedness except interest paid or accrued in connection with the ownership of real or personal property the current income from which is not taxable under this article. Interest on indebtedness incurred for the purchase of stock of corporations paying a tax on their entire net income under this article shall be deductible, and a ratable proportion of such interest with respect to corporations paying a tax on a proportion of their net income.

Taxes deductible.

4. Taxes paid or accrued during the income year, except income taxes, gift taxes, taxes levied under Section three hundred eleven and one-half of this article, inheritance and estate taxes, and taxes assessed for local benefit of a kind tending to increase the value of the property assessed. No deduction shall be allowed under this section for gasoline tax, sales tax, automobile license or registration fee by individuals not engaged in trade or business, nor shall deduction be allowed for taxes paid or accrued in connection with the ownership of property, the current income from which is not taxable under this article. All payments made by an employer into a Federal fund as provided by the provisions of Title VIII and Title IX of the Federal Social Security Act, and all payments made by an employer as provided by a State unemployment compensation law: *Provided*, that none of the foregoing provisions shall apply to that part of such payments required to be deducted by an employer from the earnings of an employee.

Exceptions.

Taxes not deductible.

Dividends on income-taxed corporations.

5. Dividends from stock in any corporation, the income of which shall have been assessed, and the tax on such income paid by the corporation under the provisions of this article: *Provided*, that when only part of the income of any corporation shall have been assessed under this article, whether paid directly to the taxpayer or paid to the taxpayer by a trustee of a distributable trust, only a corresponding part of the dividends received therefrom shall be deducted.

Business losses not compensated for.

6. Losses actually sustained during the income year of property used in trade or business or of property not connected with trade or business, if arising from fire, storm, shipwreck, or other casualties or theft and if not compensated for by insurance or otherwise. No deduction shall be allowed under this subsection for losses arising from personal loans or endorsements or other transactions of a personal nature not entered into for profit. A taxpayer shall be allowed to deduct losses in connection with the sale of securities only to the extent of the security gains during the income year, unless such losses resulted from the sale of stocks or bonds held by the taxpayer for a period of two years or more prior to the sale of such stocks or bonds.

Exception as to loans and endorsements.

Losses on sale of securities.

Worthless debts.

7. Debts ascertained to be worthless and actually charged off within the income year, if connected with business and, if the amount has previously been included in gross income in a return under this article.

Depreciation and obsolescence.

8. A reasonable allowance for depreciation and obsolescence of property used in the trade or business shall be measured by the estimated life of such property; and in case of mines, oil and gas wells, other natural deposits and timber, a reasonable allowance for depletion. The cost of property acquired since January first, one thousand nine hundred and twenty-one, plus additions and improvements, shall be the basis for determining the amount of depreciation, and if acquired prior to that date the book value as of that date of the property shall be the cost basis for determining depreciation.

Determination of amount of depreciation.

Depletion of natural deposits.

In cases of mines, oil and gas wells, and other natural deposits, the cost of development not otherwise deducted will be allowed as depletion, and in the cases of leases, the deduction allowed may be equitably apportioned between the lessor and the lessee.

Same basis as that of U. S. Government.

In case the Federal Government determines depreciation or depletion of property for income tax purposes upon the basis of book value instead of original cost, the depreciation allowed under this article shall be upon the same basis.

Contributions not exceeding 10% of net income.

9. Contributions or gifts made by individuals within the income year to corporations or associations operated exclusively for religious, charitable, scientific, or educational purposes, or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, to an amount not in excess of ten per centum (10%) of the taxpayer's net income, as computed without the benefit of this sub-division.

Income taxes paid to another state.

10. Resident individuals and domestic corporations having an established business in another state, or investment in property in another state, may deduct the net income from such business or investment if such business or investment is in a State that levies a tax upon such net income. The deduction herein authorized shall in no case operate to reduce the taxable income in this State below the income actually earned in this State or properly allocable as income earned in this State. Nor shall the deduction in any way relate to income received by individuals or domestic corporations from personal services or income from mortgages, stocks, bonds, securities, and deposits.

Restrictions.

Deductions of non-resident individuals restricted.

11. In the case of a non-resident individual, the deductions allowed in this section shall be allowed only if and to the extent that they are connected with income arising from sources within the State; and the proper apportionment and allocation of the deductions with respect to sources of income within and without

the State shall be determined under rules and regulations prescribed by the Commissioner of Revenue.

Time within which items allowable as deductions must be paid.

12. In computing net income no deduction shall be allowed under this section relating to salaries, wages, or other expenses, rentals or other similar payments, interest or taxes, if (1) the same are not actually paid within the taxable year or within two and one-half (2½) months after the close thereof; and (2) if, by reason of the method of accounting of the person or corporation to whom the payment is to be made, the amount thereof is not, unless actually paid, includible in the gross income of such person or corporation for the taxable year in which or with which the taxable year of the taxpayer ends.

Items not deductible.

SEC. 323. *Items not deductible.*

In computing net income no deduction shall in any case be allowed in respect of:

Living expenses.

(a) Personal, living, or family expenses.

Betterments.

(b) Any amount paid out for new buildings or for permanent improvements or betterments, made to increase the value of any property or estate.

Life insurance premiums.

(c) Premiums paid on any life insurance policy.

Gifts of corporations.

(d) Contributions or gifts made by corporations.

Income, etc.

(e) Income, excess profits and gift taxes, including Federal tax or undistributed earnings.

Social Security and unemployment tax.

(f) Social Security and unemployment tax paid by employee.

Contributions to individuals.

(g) Contributions to individuals.

Commutation expenses.

(h) Commutation expenses.

Exemptions:

SEC. 324. *Exemptions.*

1. There shall be deducted from the net income the following exemptions:

Single individual, $1,000.

(a) In the case of a single individual, a personal exemption of one thousand dollars ($1,000.00).

Married man or household head, or person incapable of self support, $2,000.

(b) In the case of a married man with a wife living with him, two thousand dollars ($2,000.00), or in the case of a person who is the head of a household and maintains the same and therein supports one or more dependent relatives, under eighteen years of age or is incapable of self-support because mentally or physically defective, two thousand dollars ($2,000.00).

Married woman with separate income, $1,000.

(c) A married woman having a separate and independent income, one thousand dollars ($1,000.00).

(d) In the case of a widow or widower having minor child or children, natural or adopted, two thousand dollars ($2,000.00). Widowed parents, $2,000.

(e) Two hundred dollars ($200.00) for each individual (other than husband and wife) dependent upon and receiving his chief support from the taxpayer, if such dependent individual is under eighteen years of age or is incapable of self-support because mentally or physically defective. Dependents, $200 each.

(f) In the case of a fiduciary filing a return for that part of the net income of estates or trusts which has not become distributable during the income year one thousand dollars ($1,000.00). Estates not distributable, $1,000.

In the case of a fiduciary filing a return for the net income received during the income year by deceased resident or non-resident individuals, who have died during the tax year or income year, without having made a return, two thousand dollars ($2,000.00) if married and one thousand dollars ($1,000.00) if single. Deceased individuals; single $1,000, married $2,000.

In the case of a fiduciary filing a return for an insolvent or incompetent individual resident or non-resident where the fiduciary has complete charge of such net income the same exemption to which the beneficiary would be entitled. Insolvent or incompetent individuals.

2. The exemptions allowed by this section shall not apply to a resident of this State having income from a business or agency in another state, or with respect to non-resident having a taxable income in this State unless the entire income of such resident or non-resident individual is shown in the return of such resident or non-resident; and if the entire income is so shown, the exemption shall be prorated in the proportion of the income in this State to the total income. Exemptions to residents with income from another state and non-residents.

3. The status on the last day of the income year shall determine the right to the exemptions provided in this section: *Provided,* that a taxpayer shall be entitled to such exemption for husband or wife or dependents who have died during the income year. Exemptions determined by status on last day year.

SEC. 325. *Credit for taxes in case of taxpayers other than residents of the State.*

Whenever a taxpayer other than a resident of the State has become liable to income tax to the state or country where he resides upon his net income for the taxable year, derived from sources within this State and subject to taxation under this article, the Commissioner of Revenue shall credit the amount of income tax payable by him under this article with such proportion of the tax so payable by him to the state or country where he resides as his income subject to taxation under this article bears to his entire income upon which the tax so payable to such other state or country was imposed: *Provided,* that such credit shall be allowed only if the laws of said state or country (1) grant a substantially similar credit to residents of this State subject to in- Credit allowed non-residents for taxes paid elsewhere. Reciprocity necessary.

come tax under such laws, or (2) impose a tax upon the personal incomes of its residents derived from sources in this State and exempt from taxation the personal incomes of residents of this State. No credit shall be allowed against the amount of the tax on any income taxable under this article which is exempt from taxation under the laws of such other state or country.

SEC. 326. *Returns.*

Persons required to make returns.

1. Every resident or non-resident having a net income during the income year taxable in this State of one thousand dollars ($1,000.00) and over, if single, or if married and not living with husband or wife, or having a net income for the income year of two thousand dollars ($2,000.00) or over, if married and living with husband or wife, and every corporation doing business in the State shall make a return under oath, stating specifically the items of gross income and the deductions allowed by this article, and such other facts as the Commissioner of Revenue may require for the purpose of making any computation required by this article. Every resident of the State having gross income from a business, agency or profession in excess of five thousand dollars ($5,000.00) and every non-resident having gross income from a business, agency or profession within this State in excess of five thousand dollars ($5,000.00) shall be required to make a return. When the Commissioner of Revenue has reason to believe any person or corporation is liable for tax under this article, he may require any such person or corporation to make a return.

Filing required where gross income exceeds $5,000.

Returns by authorized agents.

2. If the taxpayer is unable to make his own return, the return shall be made by a duly authorized agent or by a guardian or other person charged with the care of the person or property of such taxpayer.

Verification of corporate returns.

3. The return by a corporation shall be sworn to by the president, vice-president, or other principal officer, and by the treasurer or assistant treasurer.

Returns of individuals dying during year.

4. The return of an individual, who, while living, received income in excess of the exemption during the income year, and who has died before making the return, shall be made in his name and behalf by the administrator, or executor of the estate, and the tax shall be levied upon and collected from his estate.

Return of corporations dissolved during year.

5. Before a corporation shall be dissolved and its assets distributed it shall make a return for and settlement of tax for any income earned in the income year up to its period of dissolution.

Commissioner may investigate distorted returns.

6. When the Commissioner of Revenue has reason to believe that any taxpayer so conducts the trade or business as either directly or indirectly to distort his true net income and the net income properly attributable to the State, whether by the arbitrary shifting of income, through price fixing, charges for service, or otherwise, whereby the net income is arbitrarily assigned to one

or another unit in a group of taxpayers carrying on business under a substantially common control, he may require such facts as he deems necessary for the proper computation of the entire net income and the net income properly attributable to the State, and in determining same the Commissioner of Revenue shall have regard to the fair profit which would normally arise from the conduct of the trade or business.

Commissioner to investigate returns of corporations seeking to create improper net income.

7. When any corporation liable to taxation under this article conducts its business in such a manner as either directly or indirectly to benefit the members or stockholders thereof or any person interested in such business by selling its products or goods or commodities in which it deals at less than the fair price which might be obtained therefor, or where a corporation, a substantial portion of whose capital stock is owned either directly or indirectly by another corporation, acquires and disposes of the products of the corporation so owning a substantial portion of its stock in such a manner as to create a loss or improper net income for either of said corporations, or where a corporation, owning directly or indirectly a substantial portion of the stock of another corporation, acquires and disposes of the products of the corporation of which it so owns a substantial portion of the stock in such manner as to create a loss or improper net income for either of said corporations, the Commissioner of Revenue may determine the amount of taxable income of either or any such corporations for the calendar or fiscal year, having due regard to the reasonable profits which, but for such arrangement or understanding, might or could have been obtained by the corporation or corporations liable to taxation under this article from dealing in such products, goods or commodities.

Determination of true income.

SEC. 327. *Fiduciary returns.*

Returns of fiduciaries.

1. Every fiduciary subject to taxation under the provisions of this article, as provided in Section three hundred and fifteen hereof, shall make a return under oath for the individual, estate or trust for whom or for which he acts, if the net income thereof exceeds the personal exemptions.

Contents.

2. The return made by a fiduciary shall state specifically the items of gross income and the deductions and exemptions allowed by this article, and such other facts as the Commissioner of Revenue may prescribe.

Subject to same rules as individuals.

3. Fiduciaries required to make returns under this article shall be subject to all the provisions of this article which apply to individuals.

SEC. 328. *Information at the source.*

Information at source.

1. Every individual, partnership, corporation, joint-stock company or association, or insurance company, being a resident or

Returns of corporations, individuals, etc., as to sums paid to any taxpayer.

having a place of business in this State, in whatever capacity acting, including lessors or mortgagors of real or personal property, fiduciaries, employers, and all officers and employees of the State or of any political subdivision of the State, having the control, receipt, custody, disposal, or payment of interest (other than interest coupons payable to bearer), rent, salaries, wages, premiums, annuities, compensations, remunerations, emoluments or other fixed or determinable annual or periodical gains, profits, and incomes above exemptions allowed in this article, paid or payable during any year to any taxpayer, shall make complete return thereof to the Commissioner of Revenue under such regulations and in such form and manner and to such extent as may be prescribed by him.

Partnership returns to show distributive share.

2. Every partnership having a place of business in the State shall make a return, stating specifically the items of its gross income and the deductions allowed by this article, and shall include in the return the names and addresses of the individuals who would be entitled to share in the net income if distributable, and the amount of the distributive share of each individual, together with the distributive shares of corporation dividends. The return shall be sworn to by one of the partners.

Corporations to report on taxpayers receiving dividends.

3. Every corporation doing business or having a place of business in this State shall file with the Commissioner of Revenue, on such form and in such manner as he may prescribe, the names and addresses of all taxpayers, residents of North Carolina, to whom dividends have been paid and the amount of such dividends during the income year.

Sec. 329. *Time and place of filing returns.*

Form of returns.

Returns shall be in such form as the Commissioner of Revenue may from time to time prescribe, and shall be filed with the commissioner at his main office, or at any branch office which he may establish, on or before the fifteenth day of March in each year, and for all taxpayers using a fiscal year, within seventy-five days after expiration of the fiscal year. In case of sickness, absence, or other disability or whenever in his judgment good cause exists, the commissioner may allow further time for filing returns.

Filing at Raleigh or branch office on or before March 15th.

Affidavit on return.

There shall be annexed to the return the affidavit or affirmation of the taxpayer making the return, to the effect that the statements contained therein are true. The Commissioner shall cause to be prepared blank forms for the said returns, and shall cause them to be distributed throughout the State, and to be furnished upon application; but failure to receive or secure the form shall not relieve any taxpayer from the obligation of making any return herein required.

Blank forms furnished by Commissioner.

Sec. 331. *Failure to file returns; supplementary returns.*

Commissioner may order filing of new or supplementary returns.

If the Commissioner of Revenue shall be of the opinion that any taxpayer has failed to file a return or to include in a return filed,

either intentionally or through error, items of taxable income, he may require from such taxpayer a return or supplementary return, under oath, in such form as he shall prescribe, of all the items of income which the taxpayer received during the year for which the return is made, whether or not taxable under the provisions of this article. If from a supplementary return or otherwise the commissioner finds any items of income, taxable under this article, have been omitted from the original return, or any items returned as taxable that are not taxable, or any item of taxable income over-stated, he may require the items so omitted to be disclosed to him under oath of the taxpayer, and to be added to or deducted from the original return. Such supplementary return and the correction of the original return shall not relieve the taxpayer from any of the penalties to which he may be liable under any provision of this article. The commissioner may proceed under the provisions of Section three hundred and thirty-four of this article, whether or not he requires a return or a supplementary return under this section.

Compelling disclosure of omitted items.

Penalties unaffected.

COLLECTION AND ENFORCEMENT OF TAX

Collection and enforcement of tax.

SEC. 332. *Time and place of payment of tax.*

(1) The full amount of the tax payable, as shown on the face of the return, shall be paid to the Commissioner of Revenue at the office where the return is filed at the time fixed by law for filing the return. If the amount of the tax exceeds fifty dollars ($50.00), payment may be made in two installments: One-half on the date the return is filed, one-half on or before September fifteenth following, with interest on the deferred payment at the rate of six per cent (6%) per annum.

Tax payable where return is filed.

Two installments if tax over $50.

Interest added.

(2) If the time for filing the return be extended, interest at the rate of six per cent (6%) per annum from the time when the return was originally required to be filed to the time of payment shall be added and paid.

Interest added on extensions.

(3) The tax may be paid with uncertified check during such time and under such regulations as the Commissioner of Revenue shall prescribe; but if a check so received is not paid by the bank on which it is drawn, the taxpayer by whom such check is tendered shall remain liable for the payment of the tax and for all legal penalties the same as if such check had not been tendered.

Checks acceptable.

Penalty for returned check.

SEC. 333. *Examination of returns.*

Examination of returns.

1. As soon as practicable after the return is filed the Commissioner of Revenue shall examine and compute the tax, and the amount so computed by the commissioner shall be the tax. If the tax found due shall be greater than the amount theretofore paid, the excess shall be paid to the commissioner within thirty days after notice of the amount shall be mailed by the commissioner,

Commissioner to compute tax.

Notice of excess.

Refund of over-payments.

and any over-payment of tax shall be returned within thirty days after it is ascertained.

No penalty on unintended understatements.

2. If the return is made in good faith and the under-statement of the tax is not due to any fault of the taxpayer, there shall be no penalty on additional tax added because of such under-statement, but interest shall be added to the amount of the deficiency at the rate of one-half (½) of one per cent (1%) per month or fraction thereof from the time said return was required by law to be filed until paid.

Interest added.

Penalty for negligence.

3. If the under-statement is due to negligence on the part of the taxpayer, but without intent to defraud, there shall be added to the amount of the deficiency five per cent (5%) thereof, and, in addition, interest at the rate of one-half (½) of one per cent (1%) per month or fraction thereof from time said return was required by law to be filed until paid.

Penalty for fraudulent statements.

4. If the under-statement is found by the Commissioner of Revenue to be false or fraudulent, with intent to evade the tax, the tax on the additional income discovered to be taxable shall be doubled and interest at the rate of one-half (½) of one per cent (1%) per month or fraction thereof from time said return was required by law to be filed until paid. The provisions of this article with respect to revision and appeal shall apply to a tax thus assessed.

Corrections and changes.

SEC. 334. *Corrections and changes.*

Taxpayer to notify Commissioner of any changes in Federal return.

If the amount of the net income for any year of any taxpayer under this article, as returned to the United States Treasury Department, is changed and corrected by the Commissioner of Internal Revenue or other officer of the United States of competent authority, such taxpayer, within thirty days after receipt of Internal Revenue Agent's report or supplemental report reflecting the corrected net income, shall make return under oath or affirmation to the Commissioner of Revenue of such corrected net income. If the taxpayer fails to notify the Commissioner of Revenue of assessment of additional tax by the Commissioner of Internal Revenue the Statute of Limitations shall not apply. The Commissioner of Revenue shall thereupon proceed to determine, from such evidence as he may have brought to his attention or shall otherwise acquire, the correct net income of such taxpayer for the fiscal or calendar year, and if there shall be any additional tax due from such taxpayer the same shall be assessed and collected; and if there shall have been an over-payment of the tax the said commissioner shall, within thirty days after the final determination of the net income of such taxpayer, refund the amount of such excess: *Provided*, that any taxpayer who fails to comply with this section as to making report of such change as made by the Federal Government within the time specified shall be subject to all penalties as provided in Section three hundred

Reassessments.

Penalty for failure to report such change.

and thirty-six of this article, in case of additional tax due, and shall forfeit his rights to any refund due by reason of such change.

SEC. 335. *Additional taxes.* Additional taxes.

If the Commissioner of Revenue discovers from the examination of the return or otherwise that the income of any taxpayer, or any portion thereof, has not been assessed, he may, at any time within three years (except where the taxpayer has failed to notify the commissioner of additional assessment by the Federal Department—see Section three hundred and thirty-four) after the time when the return was due, give notice in writing to the taxpayer of such deficiency. Any taxpayer feeling aggrieved by such proposed assessment shall be entitled to a hearing before the Commissioner of Revenue, if within thirty days after giving notice of such proposed assessment he shall apply for such hearing in writing, explaining in detail his objections to same. If no request for such hearing is so made, such proposed assessment shall be final and conclusive. If the request for hearing is made, the taxpayer shall be heard by the Commissioner of Revenue, and after such hearing the Commissioner of Revenue shall render his decision. The taxpayer shall be advised of his decision and such amount shall be due within ten days after notice is given. The provisions of this article with respect to revision and appeal shall apply to the tax so assessed. The limitation of three years to the assessment of such tax or an additional tax shall not apply to the assessment of additional taxes upon fraudulent returns. Upon failure to file returns and in the absence of fraud the limitation shall be five years.

Notice to taxpayer of deficiency.

Exception.

Right of hearing on reassessment.

Notice of decision to taxpayer.

Five-year limitation.

SEC. 336. *Penalties.* Penalties.

1. If any taxpayer, without intent to evade any tax imposed by this article, shall fail to file a return of income and pay the tax, if one is due, at the time required by or under the provisions of this article, but shall voluntarily file a correct return of income and pay the tax due within sixty days thereafter, there shall be added to the tax an additional amount equal to five per cent thereof, but such additional amount shall in no case be less than one dollar and interest at the rate of one-half of one per cent (½%) per month or fraction thereof from the time said return was required by law to be filed until paid.

Penalty for failure to file return and pay tax.

2. If any taxpayer fails voluntarily to file a return of income or pay the tax, if one is due, within sixty days of the time required by or under the provisions of this article, there shall be added to the tax an additional amount equal to twenty-five per cent (25%) thereof and interest at the rate of one-half of one per cent (½%) per month or fraction thereof, from the time such return was required to be filed until paid, but the penalty shall not be less than five dollars ($5.00).

Penalty for voluntary failure.

Mandamus to compel filing of return.

3. If any taxpayer fails to file a return within sixty days of the time prescribed by this article, any Judge of the Superior Court, upon petition of the Commissioner of Revenue or of any ten taxable residents of the State, shall issue a writ of mandamus requiring such person to file a return. The order of notice upon the petition shall be returnable not later than ten days after the filing of the petition. The petition shall be heard and determined on the return day or such day thereafter as the court shall fix, having regard to the speediest possible determination of the case consistent with the rights of the parties. The judgment shall include costs in favor of the prevailing party. All writs and processes may be issued from the clerk's offices in any county, and, except as aforesaid, shall be returnable as the court shall order.

Hearing on petition.

Judgment.

Writs.

Venue of violations of Act.

Certificate of Commissioner prima facie evidence as to facts stated.

4. The failure to do any act required by or under the provisions of this article shall be deemed an act committed in part at the office of the Commissioner of Revenue in Raleigh. The certificate of the Commissioner of Revenue to the effect that a tax has not been paid, that a return has not been filed, or that information has not been supplied, as required by or under the provisions of this article, shall be prima facie evidence that such tax has not been paid, that such return has not been filed, or that such information has not been supplied.

Determination by Commissioner of income of delinquents.

5. If any taxpayer who has failed to file a return or has filed an incorrect or insufficient return, and has been notified by the Commissioner of Revenue of his delinquency, refuses or neglects within twenty days after such notice to file a proper return, or files a fraudulent return, the commissioner shall determine the income of such taxpayer, according to his best information and belief, and assess the same at not more than double the amount so determined. The commissioner may, in his discretion, allow further time for the filing of a return in such case.

Extensions.

Penalty for failure to file return, keep records or supply information.

6. Any person required under this article to pay any tax or required by law or regulations made under authority thereof to make a return, keep any records, or supply any information for the purposes of computation, assessment or collection of any tax imposed by this article, who wilfully fails to pay this tax, make such return, keep such records or supply such information at the time or times required by law or regulations, shall, in addition to other penalties provided by law, be guilty of a misdemeanor, and upon conviction thereof, shall be fined not more than five hundred dollars ($500.00) or imprisoned not exceeding six months, or punished by both such fine and imprisonment at the discretion of the court, within the limitations aforesaid.

REVISION AND REPEAL

Revision and appeal.

SEC. 340. *Revision by Commissioner of Revenue.*

A taxpayer may apply to the Commissioner of Revenue for revision of the tax assessed against him at any time within three years from the time of the filing of the return or from the date of the notice of assessment of any additional tax. The commissioner shall grant a hearing thereon, and if upon such hearing he shall determine that the tax is excessive or incorrect, he shall resettle the same according to the law and the facts, and adjust the computation of tax accordingly. The commissioner shall notify the taxpayer of his determination, and shall refund to the taxpayer the amount, if any, paid in excess of the tax found by him to be due.

Application to Commissioner for revision of tax assessed.

Hearing.

Adjustment.

SEC. 341. *Appeal.*

Appeal.

Any taxpayer may file formal exceptions to a finding by the Commissioner of Revenue, under the provisions of this article with respect to his taxable income, either to a matter of fact or law, as far as possible stating such exceptions separately. After they are filed, the commissioner shall pass upon the same formally, and notify the taxpayer immediately of his findings upon these exceptions. The taxpayer may, within ten days after notification of the commissioner's ruling upon these exceptions, appeal to the Superior Court of Wake County, upon paying the tax assessed by the commissioner and giving a bond for costs in the sum of two hundred dollars ($200.00): *Provided*, the taxpayer may within the above prescribed time first appeal to the State Board of Assessment on the exceptions to the findings of the commissioner; *and provided further*, that the commissioner may in his discretion require a surety bond or a deposit of State or government bonds in double the amount of the alleged deficiency. Appeal may then be taken by either the taxpayer or the commissioner to the Superior Court of Wake County as provided herein. Upon receipts of such notice and the taxes paid, and the filing of the cost bond in the sum of two hundred dollars ($200.00), the commissioner shall certify the record to the Superior Court of Wake County. In the Superior Court the proceedings shall be as follows:

Exceptions to findings of Commissioner.

Findings by Commissioner.

Appeal to Superior Court.

Payment of tax; bond for cost.

May appeal to State Board of Assessment.

Bond for deficiency.

Further appeal.

Certification of record.

Proceedings on appeal to Superior Court.

The cause shall be entitled, "State of North Carolina on Relation of the Commissioner of Revenue vs. Appellant" (giving name). If there are exceptions to facts found by the commissioner, it shall be placed on the civil issue docket of such court and shall have precedence over other civil actions, and shall be tried under the same rules and regulations as are prescribed for the trial of such civil actions, except that the findings of the commissioner shall be prima facie correct. If only issues of law, or if issues of fact are raised, and the appellant shall waive jury trial at the time of taking the appeal, the appeal may be had to the Superior

Title of cause.

Precedence over other civil actions.

Waiver of jury trial.

Hearing by judge.

Appeals to Supreme Court.

Advance of cause for hearing.

Refund of assessments illegally made, with interest.

Court of the county in which the appellant resides, and the cause shall be heard by the judge holding court in the judicial district in which the appeal is docketed, at chambers, upon ten days notice to the parties of the time and place of hearing, and the said judge shall pass upon and determine all issues, both of law and fact, the State hereby waiving in such cases a trial by jury. Either party may appeal to the Supreme Court from the judgment of the Superior Court under the rules and regulations prescribed by law for appeals, except that the State, if it should appeal, shall not be required to give any undertaking or make any deposit to secure the cost of such appeal, and the Supreme Court may advance the cause on its docket so as to give the same a speedy hearing. Any taxes, interest, or penalties paid, found by the court to be in excess of those which can be legally assessed, shall be ordered refunded to the taxpayer, with interest from the time of payment.

ARTICLE V

Schedule E.

SCHEDULE E

Sales tax.

SALES TAX

SEC. 400. *Short title.*

Title.

This article shall be known and may be cited as the Sales Tax Article of one thousand nine hundred and thirty-nine.

Purpose to provide school revenue.

SEC. 401. *Purpose.*

Levied for ensuing biennium.

The taxes levied in this article are to provide revenue for the support of the public schools of the State in substitution for the taxes formerly levied on property for this purpose. They are levied for the biennium of fiscal years beginning July first, one thousand nine hundred thirty-nine, and ending June thirtieth, one thousand nine hundred forty-one, and thereafter until otherwise provided by law.

Tax on sale of tangibles levied as license or privilege tax.

Adding tax to purchase price.

Intent to pass tax on to consumer.

The tax upon the sale of tangible personal property in this State is levied as a license or privilege tax for engaging or continuing in the business of a "wholesale" or "retail" merchant as defined in this Article. Retail merchants may add to the price of merchandise the amount of the tax on the sale thereof, and when so added shall constitute a part of such price, shall be a debt from purchaser to merchant until paid, and shall be recoverable at law in the same manner as other debts. It is the purpose and intent of this article that the tax levied herein on retail sales shall be added to the sales price of merchandise and thereby be passed on to the consumer instead of being absorbed by the merchant.

Offer publicly to absorb tax made misdemeanor.

Any retail merchant who shall, by any character of public advertisement, offer to absorb the tax levied in this article upon the retail sale of merchandise, or in any manner, directly or in-

directly, advertise that the tax herein imposed is not considered as an element in the price to the consumer, shall be guilty of a misdemeanor. Any violations of the provisions of this section reported to the Commissioner of Revenue shall be reported by the Commissioner of Revenue to the Attorney General of the State, to the end that such violations may be brought to the attention of the solicitor of the court of the county or district whose duty it is to prosecute misdemeanors in the jurisdiction. It shall be the duty of such solicitor to investigate such alleged violations and if he finds that this section has been violated to prosecute such violations. The provisions of this section are deemed necessary to prevent fraud and unfair practices, but it is the intent of the General Assembly that if one or both of such provisions be held unconstitutional and void, that such invalid provision or provisions be considered separable and that the balance of this article be given effect.

Violations reported to Attorney General.

Notification of solicitors.

Prosecution of violations.

Partial invalidity clause.

SEC. 402. *Contingency.*

If the Congress of the United States shall, at any time hereafter, enact any form of sales or production tax distributable in whole or in part to the several states, the Governor and Council of State shall estimate the proportion of such tax distributable to this State, and shall, by proclamation of the Governor, abate a uniform percentage of all the taxes levied in this article equal in estimated revenue yield to the estimated proportion of yield of such Federal tax, and from and after the effective date of such proclamation the Commissioner of Revenue shall enforce and collect only the remaining percentage of taxes levied in this article.

Enactment of Federal sales tax distributable to State, reduces State sales tax in same proportion.

SEC. 404. *Definitions.*

Definitions.

For the purposes of this article:

1. The word "person" shall mean any person, firm, partnership, association, corporation, estate or trust.

"Person."

2. The word "commissioner" shall mean the Commissioner of Revenue of the State of North Carolina.

"Commissioner."

3. The word "merchant" shall include any individual, firm, corporation, domestic or foreign, estate or trust, subject to the tax imposed by this article.

"Merchant."

4. The words "wholesale merchant" shall mean every person who engages in the business of buying any article of commerce and selling same to merchants for resale. For the purposes of this article any person, firm, corporation, estate or trust engaged in the business of manufacturing, producing, processing or blending any articles of commerce and maintaining a store or stores, warehouse or warehouses, or any other place or places, separate and

"Wholesale merchant."

apart from the place of manufacture or production, for the sale or distribution of its products to other manufacturers or producers, wholesale or retail merchants, for the purpose of resale shall be deemed a "wholesale merchant."

"Wholesale sale."

5. The words "wholesale sale" or "sale at wholesale" shall mean a sale of tangible personal property by a wholesale merchant to a manufacturer, jobber or dealer, wholesale or retail merchant, for the purpose of resale, but does not include a sale to users or consumers not for resale. The term "wholesale sale" shall include a sale of tangible personal property to a manufacturer which enters into or becomes an ingredient or component part of the tangible personal property which is manufactured.

"Retail merchant."

6. The words "retail merchant" shall mean every person who engages in the business of buying or acquiring, by consignment or otherwise, any articles of commerce and selling same at retail.

"Retail."

7. The word "retail" shall mean the sale of any articles of commerce in any quantity or quantities for any use or purpose on the part of the purchaser other than for resale.

"Sale."

8. The word "sale" shall mean any transfer of the ownership or title of tangible personal property for any kind of consideration. Transactions whereby the title is ultimately to pass, and whether such transactions are called leases, conditional sales, or by any other name, and although possession is retained for security, shall be sales.

"Gross sales."

9. The words "gross sales" shall mean the gross sales price at which such sales were made, whether for cash or on time, and if on time, the price charged on the books for such sales, without allowance for cash discount, and shall be reported as sales with reference to the time of delivery to the purchaser, except as this provision is modified by Section four hundred eight of this article.

Reports.

SEC. 405. *Taxes levied.*

Privilege tax of $1 required on businesses taxed hereunder.

If any person, after the thirtieth day of June, one thousand nine hundred thirty-nine, shall engage or continue in any business for which a privilege tax is imposed by this article, such person shall apply for and obtain from the commissioner, upon the payment of the sum of one dollar ($1.00) a license to engage in and conduct such business upon the condition that such person shall pay the tax accruing to the State of North Carolina under the provisions of this article; and he shall thereby be duly licensed to engage in and conduct such business. The license tax levied in this section shall be a continuing license until revoked for failure to comply with the provisions of this article. License issued under Article V, Chapter four hundred forty-five, Public Laws of one thousand nine hundred thirty-three, for the year one thousand nine hundred thirty-four—one thousand nine hundred thirty-five;

Continuing license.

under Chapter three hundred seventy-one, Public Laws of one thousand nine hundred thirty-five, for the biennium one thousand nine hundred thirty-five—one thousand nine hundred thirty-seven, and Chapter one hundred twenty-seven, Public Laws of one thousand nine hundred thirty-seven, for the biennium one thousand nine hundred thirty-seven—one thousand nine hundred thirty-nine, shall be deemed a continuing license under this section.

Additional taxes.

An additional tax is hereby levied for the privilege of engaging or continuing in the business of selling tangible personal property, as follows:

Wholesale merchants.

(a) Wholesale merchants. Upon every wholesale merchant as defined in this article, an annual license tax of ten dollars ($10.00). Such annual license shall be paid in advance within the first fifteen days of July in each year or, in the case of a new business, within fifteen days after business is commenced. There is also levied on each wholesale merchant an additional tax of one-twentieth of one per cent (1/20th of 1%) of the total gross sales of the business.

Annual license tax.

Also sales tax.

Taxing wholesale articles.

The sale of any article of merchandise by any "wholesale merchant" to any one other than to a licensed retail merchant for resale shall be taxable at the rate of tax provided in this article upon the retail sale of merchandise. In the interpretation of this article the sale of any articles of commerce by any "wholesale merchant" to any one not taxable under this article as a "retail merchant," except as otherwise provided in this article, shall be taxable by the wholesale merchant at the rate of tax provided in this article upon the retail sale of merchandise. The Commissioner of Revenue is authorized to make appropriate regulations, consistent with this article to prevent abuse with respect to existing regulations defining transactions entitled to the rate of tax levied on sales at wholesale.

Regulations.

Retail merchants.

Tax of 3%.

(b) Retail merchants. Upon every retail merchant, as defined in this article, a tax of three per cent (3%) of the total gross sales of the business of every such retail merchant: *Provided, however,* the maximum tax that shall be imposed upon the sale of any single article of merchandise shall be fifteen dollars ($15.00).

Maximum tax.

Sales tax on motor vehicles.

(c) Motor vehicles. In addition to the taxes levied in this article or in any other law, there is hereby levied and imposed upon every person, for the privilege of using the streets and highways of this State, a tax of three per cent (3%) of the sales or purchase price of any new or used motor vehicle purchased or acquired for use on the streets and highways of this State requiring registration thereof under the Motor Vehicle Laws of this State, which said amount shall not exceed fifteen dollars ($15.00), and shall be paid to the Commissioner of Revenue at the time of applying for certificate of title or registration of such motor vehicle. No certificate of title or registration place shall be issued for same

3% additional.

Maximum tax.

When payable.

Avoiding double payment.

unless and until said tax has been paid: *Provided, however,* if such person so applying for certificate of title or registration and license plate for such motor vehicle shall furnish to the Commissioner of Revenue a certificate from a motor vehicle dealer licensed to do business in this State, upon a form furnished by the commissioner, certifying that such person has paid the tax thereon levied in this article, the tax herein levied shall be remitted to such person to avoid in effect double taxation on said motor vehicle under this article. The term "motor vehicle" as used in this section shall include trailers.

Trailers included.

Exemptions.

SEC. 406. *Exemptions.*

The taxes imposed in this article shall not apply to the following:

Articles of commerce sold to manufacturer, producer, etc.

(a) Sales by manufacturers or producers of their own manufactured products when sold to other manufacturers, producers, wholesale or retail merchants, for the purpose of resale except as this subsection is limited and modified by Subsections four and five of Section four hundred and four of this article. The exemption in this subsection shall not extend to or include sales by manufacturers or producers of their own manufactured products when sold to users or consumers and not for the purpose of resale.

Sales to consumer taxed.

Sales tax on gasoline to be levied.

(b) It is not the intent of this article to exempt gasoline from the retail sales tax levied in this article, nor is it considered expedient to levy a tax upon the wholesale distribution of gasoline, payable at the source of distribution, and an additional tax upon the retail sale. Therefore, to carry out the intent of this article, a proportion of the tax of six cents per gallon, to be determined in the manner herein set out, shall be deemed in satisfaction of the tax upon retail sales levied in this article. The Director of the Budget, the Chairman of the Highway Commission and the Commissioner of Revenue shall in the first fifteen days of each quarterly period, determine the total amount of gasoline sold in the State in the preceding three months, and the average retail price, inclusive of gasoline tax, and shall on this basis compute the amount of tax liability at the rate of tax levied in this article on retail sales, and the sum so computed shall be deducted from the tax of six cents per gallon, and credited by the State Treasurer to the sales tax revenue levied in this article. These sums shall be available only after full provision is made for the expense of collecting highway revenues, for the administration of the Highway and Public Works Commission, for the service of the debt, and for reasonable maintenance of State and county highways, nor shall the application herein made become available to the general fund unless the Director of the Budget shall find such sum to be reasonably necessary to meet appropriations from the general fund. The amount so allocated to the general fund shall not be transferred from the Highway Fund, or become a definite

Proportion of 6c gasoline tax allocated to purpose.

Quarterly determination of amount of gasoline sold.

Computation of sales tax.

Diversion.

Restrictions on diversions.

Requirements for diversion.

charge against it until the surplus in the general fund at the end of the present fiscal year, together with current revenues, shall have been exhausted, or until the Director of the Budget shall find as a fact that such transfer is necessary to prevent a deficit in the general fund; nor shall such transfer or any part thereof be made until the appropriations from the Highway Fund, hereinabove referred to, have been provided for. In construing this provision the Director of the Budget shall not be required to take into account an incidental credit balance of the general fund.

Fertilizer, lime, etc.

(c) Sale of commercial fertilizer on which the inspection tax is paid, and lime and land plaster used for agricultural purposes whether the inspection tax is paid or not.

Sales to Federal or State Government.

(d) Sales made to the State of North Carolina or any of its subdivisions, including sales of merchandise and articles of commerce to agencies of State or local governments for distribution in public welfare or relief work. This exemption shall not apply to sales made to organizations, corporations, and institutions that are not governmental agencies, owned and controlled by the State or local governments. Sales of building material made directly to the Federal Government or to State and local governments in this State shall be exempt from the tax on building material levied in this Act, and sales of building material to contractors to be used in construction work for Federal, State or local governments shall be construed as direct sales.

Constitutional exemptions.

(e) The gross receipts from sales of tangible personal property which the State is prohibited from taxing under the Constitution or laws of the United States of America or under the Constitution of this State.

Deductions of bad accounts charged off.

(f) Accounts of purchasers, representing taxable sales, on which the tax imposed by this article has been paid, that are found to be worthless and actually charged off for income tax purposes may, at corresponding periods, be deducted from gross sales in so far as they represent taxable sales made after July first, one thousand nine hundred thirty-three, and to be added to gross sales if afterwards collected.

School books.

(g) Sales of public school books on the adopted list and the selling price of which is fixed by State contract.

Used articles taken as credit on new.

(h) Sales of used articles taken in trade, or a series of trades, as a credit or part payment on the sale of a new article, provided the tax levied in this article is paid on the full gross sales price of the new article. In the interpretation of this subsection, new article shall be taken to mean the original stock in trade of the merchant, and shall not be limited to newly manufactured articles. The resale of articles repossessed by the vendor shall likewise be exempt from gross sales taxable under this article.

"New article" defined.

Conditional exemptions.

(i) Conditional exemptions:

In addition to the exemptions set out in this section there shall also be an exemption of sales by retail merchants, upon conditions hereinafter set out, of the following articles:

Primary and essential articles of food; enumerated and defined.

Flour, meal, meat, lard, milk, molasses, salt, sugar, coffee, Holy Bibles, bread and rolls.

It is the intention that this exemption shall apply to these primary and essential articles of food as the words used are commonly understood.

"Flour" defined.

Flour means wheat flour and does not include cereal products other than flour.

"Meal" defined.

Meal means corn meal and not grits, flakes, or other cereal products.

"Meat" defined.

Meat includes fresh or cured meats of animals or fish other than shell-fish, but does not include any specialized products in cans, jars, boxes, or cartons for the retail trade.

"Lard" defined.

Lard is intended to include articles commonly understood by the use of this term, both from animal fat and vegetable substitutes, but does not include oleomargarine, butter, oils, or other like products.

"Molasses" defined.

Molasses includes the product commonly understood by that name, and does not include cane, sugar, maple, or other syrups.

"Milk" defined.

Milk includes sweet and buttermilk, but does not include canned milk, evaporated milk, or other milk products.

"Sugar" defined.

Sugar includes plain and granulated sugar as commonly understood and no other sugar products.

"Coffee" defined.

Coffee means plain, roasted, or ground coffee as commonly understood, but not coffee substitutes.

"Bread and rolls" defined.

Bread and rolls shall include only plain white and brown bread and rolls sold for consumption off the premises and shall not include cakes, buns and other pastries.

Ice.

(j) Sales of ice, whether sold by the manufacturer, producer, wholesale or retail merchants.

Medicine.

(k) Sales of medicines sold on prescriptions of physicians, or medicines compounded, processed or blended by the druggist offering the same for sale at retail.

Farm products, etc.

(l) Sales of products of farms, forests, mines, and waters when such sales are made by the producers in their original or unmanufactured state. Fish and sea foods shall be likewise exempt when sold by the fishermen.

(m) For the purposes of this article, sales of mill machinery or mill machinery parts and accessories to manufacturing industries and plants may be classified as wholesale sales and, therefore, only subject to the wholesale rate of tax. Mill machinery subject only to wholesale tax.

(n) Sales of horses and/or mules. Horses and mules.

(o) Sales of coffins or caskets which do not sell for more than one hundred dollars ($100.00). Coffins.

Every merchant selling merchandise to other merchants for resale shall deliver to the customer a bill of sale for each sale of merchandise, whether sold for cash or on credit, and shall make and retain a duplicate or carbon copy of each such bill of sale, and shall keep a file of all such duplicate bills of sale for at least three years from date of sale, or until inspected and audited by a representative of the Department of Revenue. Failure to comply with the provisions of this subsection shall subject the seller to liability for tax upon such sales at the rate of tax levied in this article upon retail sales. Merchants required to keep duplicate or copy of bills of sale. Penalty for failure to keep bills of sale.

Unless records are kept in such manner as will accurately disclose separate accounting of sales of taxable and non-taxable merchandise and in such form as may be accurately and conveniently checked by the representative of the Department of Revenue, the exemptions herein made shall not be allowed, and it shall be the duty of the commissioner or his agents to assess a tax upon the total gross sales at the rate of tax levied upon retail sales, and if records are not kept showing total gross sales, it shall be the duty of the commissioner or his agents to assess a tax upon an estimation of sales upon the best information obtainable. Separate records kept of sales of taxable and non-taxable merchandise. Assessment by Commissioner upon failure.

SEC. 407. *Taxes payable; failure to make return; duty and power of commissioner.*

The taxes levied in this article shall be due and payable in monthly installments on or before the fifteenth day of the month next succeeding the month in which the tax accrues. Every taxpayer liable for the tax imposed by this article shall, on or before the fifteenth day of the month, make out or prepare a return on the blank report form furnished by the Commissioner of Revenue, showing the total gross sales, the sales exempted from the tax, the net taxable sales, the amount of tax covering sales in the preceding month, and shall mail same, together with the remittance for the amount of the tax, to the commissioner. Such monthly return shall be signed by the taxpayer or a duly authorized agent of the taxpayer. Taxes payable in monthly installments. Monthly returns of taxpayers.

(a) Delayed returns: If a delinquent return or a return without remittance for the amount of tax shown to be due is received by the commissioner or his duly authorized agents, the taxpayer Penalty for delinquent returns.

shall be assessed with a five per centum penalty plus interest at one-half of one per centum per month from the date the tax was due. The penalty provided in this subsection shall not be less than one dollar ($1.00).

Procedure by Commissioner in event of failure to make returns.

(b) Failure to make returns: If the taxpayer shall fail to make or refuse to make the returns required under this article, then such returns shall be made by the commissioner or his duly authorized agents from the best information available, and such returns shall be prima facie correct for the purposes of this article, and the amount of tax due thereby shall be a lien against all the property of the taxpayer until discharged by payments, and if payment not be made within thirty days after demand therefor by the commissioner or his duly authorized agents, there shall be added not more than one hundred per centum as damages, together with interest at the rate of one per centum per month from the time such tax was due. If such tax be paid within thirty days after notice by the commissioner, then there shall be added not more than ten per centum as damages, and interest at the rate of one per centum per month from the time such tax was due until paid.

Lien on property of taxpayer.

Penalties.

Issue of title or license for motor vehicle prohibited until tax paid or certificate filed.

(c) Not to issue certificate of title or license: As an additional means of enforcement of the payment of the tax herein levied the Department of Revenue shall not issue a certificate of title or a license plate for any new or used motor vehicle sold by any merchant or dealer licensed to do business in this State until the tax levied for the sale of same in this article has been paid, or a certificate, duly signed by a dealer licensed to do business in this State, is filed at the time the application for title or license plate is made for such motor vehicle; such certificate to be on such form as may be prescribed by the Commissioner of Revenue, and that such certificate shall show that the said licensed dealer has assumed the responsibility for the payment of the tax levied under this article and agrees to report and remit the tax in his next regular monhtly sales tax report required to be filed under this article.

SEC. 408. *Credit sales.*

Reporting cash and credit sales separately.

Any person taxable under this article having cash and credit sales may report such cash and credit sales separately, and upon making application therefor may obtain from the commissioner an extension of time for the payment of taxes due on such credit sales. Such extension shall be granted under such rules and regulations as the commissioner may prescribe. When such extension is granted, the taxpayer shall thereafter include in each monthly report all collections made during the month next preceding and shall pay taxes due thereon at the time of filing such report.

Extensions.

Report and payment on collections.

SEC. 409. *Quarterly returns. Obsolete.*

SEC. 410. *Annual returns. Obsolete.*

SEC. 411. *The commissioner shall provide forms.*

Commissioner to provide forms.

The monthly returns required under this article shall be made upon forms to be prescribed and provided by the commissioner.

SEC. 412. *The commissioner may extend time.*

Extension of time for making returns.

The commissioner for good cause may extend the time for making any return required under the provisions of this article, and may grant such additional time within which to make such return as he may deem proper, but the time for filing any such return shall not be extended beyond the fifteenth day of the month next succeeding the regular due date of such return. If the time for filing a return be extended, interest at the rate of one-half of one per centum per month from the time the return was required to be filed to the time of payment shall be added and paid.

Limitations on extensions.

Interest on extensions.

SEC. 413. *Annual returns. Obsolete.*

SEC. 414. *Commissioner to correct error.*

Correction of errors.

As soon as practicable after the return is filed the commissioner shall examine it; if it then appears that the correct amount of tax is greater or less than that shown in the return, the tax shall be recomputed.

Credit or refund of excess payments.

Excessive payments: If the amount already paid exceeds that which should have been paid, on the basis of the tax so recomputed, the excess shall be credited or refunded to the taxpayer in accordance with the provisions of this article.

Deficiency of amount:

Payment of deficiency.

(a) If the amount already paid is less than the amount which should have been paid, the difference to the extent not covered by any credits under this article, together with interest thereon at the rate of one-half of one per ctntum per month from the time the tax was due, shall be paid upon notice and demand by the commissioner.

Interest added.

Penalty for intentional failure to pay.

(b) If any part of the deficiency is due to negligence or intentional disregard to authorized rules and regulations, with knowledge thereof, but without intent to defraud, there shall be added as damages ten per centum of the total amount of the deficiency in the tax, and interest in such a case shall be collected at the rate of one per centum per month of the amount of such deficiency in the tax from the time it was due, which interest and damages shall become due and payable upon notice and demand by the commissioner.

Fraudulent attempt to evade tax doubles amount due.

(c) If any part of the deficiency is due to fraud with intent to evade the tax, then there shall be added as damages not more than one hundred per centum of the total amount of the deficiency in the tax, and in such case the whole amount of tax unpaid, including charges so added, shall become due and payable upon notice and demand by the commissioner, and an additional one per centum per month on the tax shall be added from the date such tax was due until paid.

Interest added.

Failure to make up deficency incurs penalty.

(d) If the amount already paid is less than the amount which should have been paid, the commissioner or his duly authorized agent shall notify the taxpayer of the balance due, plus such interest and damages as are set forth in (a), (b), and (c) just preceding, and if this total amount is not paid or no appeal is taken within thirty days from the date of notice, such action shall be considered as a refusal on the part of the taxpayer to make a return, and the taxpayer shall be subject to such penalties or provisions as are provided in this article for failure to make a return.

Sales tax declared prior lien in event of insolvency.

If any taxpayer, subject to the provisions of this article, goes into bankruptcy, receivership, or turns over his stock of merchandise by voluntary transfer to creditors, the tax liability under this article shall constitute a prior lien on such stock of merchandise, subject to execution, and it shall be the duty of the transferee in any such case to retain the amount of the tax due from the first sales from such stock of merchandise and to pay the same to the Commissioner of Revenue.

SEC. 415. *Taxpayer must keep records.*

Suitable records must be kept by taxpayer.

It shall be the duty of every person engaging or continuing in this State in any business for which a privilege tax is imposed by this article to keep and preserve suitable records of the gross income, gross receipts and/or gross receipts of sales of such business, and such other books or accounts as may be necessary to determine the amount of tax for which he is liable under the provisions of this article. And it shall be the duty of every such person to keep and preserve, for a period of three years, all invoices of goods and merchandise purchased for resale, and all such books, invoices, and other records shall be open for examination at any time by the commissioner or his duly authorized agent.

Invoices preserved for three years.

SEC. 416. *Tax shall be lien.*

Tax declared lien on property of taxpayer.

Report of sale of business.

The tax imposed by this article shall be a lien upon the stock of goods and/or any other property of any person subject to the provisions hereof who shall sell out his business or stock of goods, or shall quit business, and such person shall be required to make out the return provided for under Section four hundred seven within thirty days after the date he sold out his business or stock of goods, or quit business, and his successor in business shall be required to withhold sufficient of the purchase money to cover the amount of said taxes due and unpaid until such time as the for-

Withholding part of purchase price for tax due.

mer owner shall produce a receipt from the commissioner showing that the taxes have been paid, or a certificate that no taxes are due. If the purchaser of a business or stock of goods shall fail to withhold purchase money as above provided, and the taxes shall be due and unpaid after the thirty-day period allowed, he shall be personally liable for the payment of the taxes accrued and unpaid on account of the operation of the business by the former owner.

Liability of purchaser for accrued and unpaid taxes.

SEC. 417. *Aggrieved person may file a petition.*

If any person having made the return and paid the tax as provided by this article feels aggrieved by the assessment made upon him by the commissioner, or, in the absence of a report, if an assessment has been made by the commissioner under the provisions of this article, the taxpayer may apply to the commissioner by petition, in writing, within thirty days after the notice is mailed to him, for a hearing and a correction of the amount of the tax so assessed upon him by the commissioner, in which petition he shall set forth the reasons why such hearing should be granted and the amount in which such tax should be reduced. The commissioner shall promptly consider such petition, and may grant such hearing or deny the same. If denied, the petitioner shall be forthwith notified thereof; if granted, the commissioner shall notify the petitioner of the time and place fixed for such hearing. After such hearing the commissioner may make such order in the matter as may appear to him just and lawful, and shall furnish a copy of such order to the petitioner. Any person improperly charged with any tax and required to pay the same may recover the amount paid, together with interest, in any proper action or suit against the commissioner, and the Superior Court of the county in which the taxpayer resides or is located shall have original jurisdiction of any action to recover any tax improperly collected. In any suit to recover taxes paid or to collect taxes, the court shall adjudge costs to such extent and in such manner as may be deemed equitable.

Petition for review and correction of assessment.

Contents.

Hearing.

Notice of decision.

Recovery of tax improperly assessed.

Taxing costs.

Either party to such suit shall have the right to appeal to the Supreme Court of North Carolina as now provided by law. In the event a final judgment is rendered in favor of the taxpayer in a suit to recover illegal taxes, then it shall be the duty of the State Auditor, upon receipt of a certified copy of such final judgment, to issue a warrant directed to the State Treasurer in favor of such taxpayer to pay such judgment, interest, and costs. It shall be the duty of the State Treasurer to honor such warrant and pay such judgment out of any funds in the State Treasury.

Appeals to Supreme Court.

Refunds.

No injunction shall be awarded by any court or judge to restrain the collection of the taxes imposed by this article, or to restrain the enforcement of this article.

No injunction against collection or enforcement.

SEC. 418. *Warrant for collection of tax; tax shall constitute debt due State.*

Enforcement of payment of tax.

If any tax imposed or any portion of such tax be not paid within thirty days after the same becomes due, the commissioner shall proceed to enforce the payment of such tax in the manner provided by Section eight hundred twelve of this Act.

SEC. 419. *Annual return, when to be made. Obsolete.*

SEC. 420. *Additional tax.*

Taxes herein imposed additional to other license taxes.

The tax imposed by this article shall be in addition to all other licenses and taxes levied by law as a condition precedent to engaging in any business taxable hereunder, except as in this article otherwise specifically provided. But no county, municipality, or district shall be authorized to levy any tax by virtue of the provisions of this article.

Local units may not tax.

Remittances of taxes to Commissioner.

Receipts.

Remittances, how made: All remittances of taxes imposed by this article shall be made to the commissioner by bank draft, check, cashier's check, money order, or money, who shall issue his receipts therefor to the taxpayers, when requested, and shall deposit daily all monies received to the credit of the State Treasurer as required by law for other taxes: *Provided,* no payment other than cash shall be final discharge of liability for the tax herein assessed and levied unless and until it has been paid in cash to the commissioner.

Commissioner's records.

The commissioner shall keep full and accurate records of all monies received by him, and how disbursed; and shall preserve all returns filed with him under this article for a period of three years.

SEC. 421. *Letters in report not to be divulged.*

Reports and amount of taxes made secret.

Unless in accordance with the judicial order or as herein provided, the State Department of Revenue, its agents, clerks or stenographers, shall not divulge the gross income, gross proceeds of sales, or the amount of tax paid by any person as shown by the reports filed under the provisions of this article except to members and employees of the State Department of Revenue for the purpose of checking, comparing, and correcting returns, or to the Governor, or to the Attorney General, or any other legal representative of the State in any action in respect to the amount of tax due under the provisions of this article.

Dissolution of corporation delayed until tax paid.

(a) The Secretary of State shall withhold the issuance of any certificate of dissolution or withdrawal in the case of any corporation organized under the laws of this State, or organized under the laws of another State and admitted to do business in this State, until the receipt of a notice from the commissioner to the effect that the tax levied under this article against any such corporation has been paid, if any such corporation is a taxpayer under the law, or until he shall be notified by the commissioner that the applicant is not subject to pay a tax hereunder.

SEC. 422. *Unlawful to refuse to make returns; penalty.*

Refusal to make returns or making false returns declared unlawful.

It shall be unlawful for any person to fail or refuse to make the return provided to be made in this article, or to make any false or fraudulent return or false statement in any return of the tax, or any part thereof, imposed by this article; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article; or for the president, vice-president, secretary or treasurer of any company to make or permit to be made for any company or association any false return, or any false statement in any return required by this article, with the intent to evade the payment of any tax hereunder; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the commissioner or his duly appointed agent, as required by this article, or to fail or refuse to permit the inspection or appraisal of any property by the commissioner or his duly appointed agent, or to refuse to offer testimony or produce any record as required in this article. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined not more than five hundred dollars ($500.00) or imprisoned not exceeding six months, or punished by both such fine and imprisonment, at the discretion of the court within the limitations aforesaid. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury, and, on conviction thereof, shall be punished in the manner provided by law. Any company for which a false return shall be made or a return containing a false statement as aforesaid, shall be guilty of a misdemeanor, and may be punished by a fine of not more than one thousand dollars ($1,000.00).

Other acts prohibited.

Penalty for violations.

Perjury as to filing reports.

Penalty for false returns by corporations.

SEC. 423. *Commissioner to make regulations.*

Rules and regulations of Commissioner.

The Commissioner shall from time to time promulgate such rules and regulations not inconsistent with this article for making returns and for the ascertainment, assessment, and collection of the tax imposed hereunder as he may deem necessary to enforce its provisions, and upon request shall furnish any taxpayer with a copy of such rules and regulations.

SEC. 424. *Commissioner or agent may examine books, etc.*

Examination of books and records by Commissioner or agents.

The commissioner, or his authorized agents, may examine any books, papers, records, or other data bearing upon the correctness of any return, or for the purpose of making a return where none has been made, as required by this article, and may require the attendance of any person and take his testimony with respect to any such matter, with power to administer oaths to such person or persons. If any person summoned as a witness shall fail to

Judicial powers of Commissioner.

obey any summons to appear before the commissioner or his authorized agent, or shall refuse to testify or answer any material question or to produce any book, record, paper, or other data when required to do so, such failure or refusal shall be reported to the Attorney General or the district solicitor, who shall thereupon institute proceedings in the Superior Court of the county where such witness resides to compel obedience to any summons of the commissioner, or his authorized agent. Officers who serve summonses or subpoenas, and witnesses attending, shall receive like compensation as officers and witnesses in the Superior Courts, to be paid from the proper appropriation for the administration of this article.

Compelling obedience to summons.

SEC. 425. *Excess payments; refund.*

Refund of excess payments.

If upon examination of any monthly return made under this article it appears that an amount of tax has been paid in excess of that properly due, then the amount in excess shall be credited against any tax or installment thereof then due from the taxpayer, under any other subsequent monthly return, or shall be refunded to the taxpayer by certificate of over-payment issued by the commissioner to the State Auditor, which shall be investigated and approved by the Attorney General, and the Auditor shall issue his warrant on the Treasurer, which warrant shall be payable out of any funds appropriated for that purpose.

Certificate of overpayment.

SEC. 426. *Prior rights or actions not affected by this Act.*

Prior rights under 1937 Revenue Act unaffected.

Nothing in this Act shall affect or defeat any claim, assessment, appeal, suit, right or cause of action for taxes due, under the Revenue Act of one thousand nine hundred thirty-seven, prior to the date of which this Act becomes effective, whether such assessment, appeal, suit, claim or action shall have begun before the date on which this Act becomes effective or shall thereafter be begun; and the sections of the Revenue Act of one thousand nine hundred thirty-seven, amended or repealed by this Act, are expressly continued in full force, effect, and operation for the purpose of assessment and collection of any taxes due under any such laws prior to the date on which this Act becomes effective, and for the imposition of any penalties, forfeitures, or claims for a failure to comply therewith.

Tax on building materials.

SEC. 427. *Tax on building materials.*

Tax of 3%.

There is herby levied and there shall be collected from every person, firm or corporation, an excise tax of three per cent of the purchase price of all tangible personal property purchased or used subsequent to June thirtieth, one thousand nine hundred thirty-nine, which shall enter into or become a part of any building or any other kind of structure in this State, including all materials, supplies, fixtures and equipment of every kind and

description which shall be annexed thereto or in any manner become a part thereof, except rough and dressed lumber (but not millwork), brick or hollow tile, sand, gravel, crushed stone, rock and granite. Exceptions.

The provisions of this section shall not apply: Exemptions.

(a) In respect to the use of any such article of tangible personal property, the sale or use of which has already been subjected to a tax equal to or in excess of that imposed by this section, whether under the laws of this State or of some other state or territory of the United States: *Provided*, that if the tax imposed on the sale or use of such tangible personal property imposed by other laws on the sale or use of such property is less than the tax imposed by this section, the provisions of this section shall apply, but at a rate measured by the difference between the rate herein fixed and the rate by which the previous tax upon the sale or use of such property was computed: *Provided*, that the tax upon the use of a single article of merchandise shall be limited as provided in Schedule E, and shall not apply to tangible personal property exempt from tax and/or classified, when sold, as wholesale sales under the provisions of Schedule E preceding this section in Schedule E. Articles upon which the amount of taxes provided have been paid. If paid at lower rate, the margin is subject to taxation. Sales of single articles governed by Schedule E.

(b) In respect to such tangible personal property as shall enter into any building or structure erected or constructed under any contract with the Federal Government or any of its agencies, or with the State of North Carolina or any of its agencies or with any county or municipality in North Carolina or any of their agencies. Materials for governmental structures exempted.

Every person liable for the tax imposed by this section shall report to the Commissioner of Revenue and pay the the taxes herein levied in accordance with the provisions of Article V, Schedule E, of this Act, and in so far as the provisions of said article are appropriate and not inconsistent herewith, shall be liable for all penalties and shall be subject to all of the provisions of said article. The provisions of said article relating to the administration of said Act, auditing of returns and as to the authority and powers of the commissioner to make rules and regulations for the administration of this section, shall be deemed and taken as a part of this section. The definitions of terms, so far as may be applicable to this section, contained in Article V, Schedule E, shall be treated as definitions applicable to this section. Report to Commissioner. Penalties.

The taxes levied in this section shall be levied against the purchaser of the articles named. If purchases of building materials that are not exempt from tax are made by a contractor there shall be joint liability for the tax against both contractor and owner, but the liability of the owner shall be satisfied if affidavit is required of the contractor, and furnished by him, before final settlement is made, showing that the tax herein levied has been paid in full. Taxes levied against purchaser. Joint liability of contractor and owner. Discharge of owner's liability.

Purchaser relieved from liability upon receipt of retail merchant assuming payment.

(c) A receipt given by a retail merchant maintaining a place of business in this State, showing thereon that the retail sales tax imposed by Article V, Schedule E, will be paid by such retail merchant on the articles of commerce included within said purchase, shall be sufficient to relieve the purchaser from further liability for tax imposed by this section: *Provided further*, that the commissioner may, by rule and regulation, provide that a similar receipt from a retailer who does not maintain a place of business in this State shall also be sufficient to relieve the purchaser of further liability for the tax to which such receipt may refer.

"Retail merchant" defined.

The term "retail merchant," as used in this subsection, shall include wholesalers, jobbers, manufacturers, or their agents, selling taxable building materials for use or consumption in this State to others than merchants for resale.

ARTICLE VI

Schedule F.

SCHEDULE F

Beverage Control Act.

TO REGULATE THE MANUFACTURE, TRANSPORTATION AND SALE OF CERTAIN BEVERAGES

Title.

SEC. 500. *This article shall be known as the Beverage Control Act of one thousand nine hundred and thirty-nine.*

"Beverages" defined and enumerated.

SEC. 501. *The term "beverages" as used in this article shall include*:

Beer, ale, etc.

(a) Beer, lager beer, ale, porter, and other brewed or fermented beverages containing one-half of one per cent (1%) of alcohol by volume but not more than five per cent (5%) of alcohol by weight as authorized by the laws of the United States of America.

Unfortified wines.

(b) Unfortified wines, as used in this article, shall mean wine of an alcoholic content produced only by natural fermentation or by the addition of pure cane, beet, or dextrose sugar and having an alcoholic content of not less than five per centum (5%) and not more than fourteen per centum (14%) of absolute alcohol, the per centum of alcohol to be reckoned by volume.

Fortified wines.

(c) Fortified wines shall mean any other wine or alcoholic beverages made by fermentation from grapes, fruits and berries and fortified by the addition of brandy or alcohol thereto and having an alcoholic content of not less than fourteen per centum (14%) and not more than twenty-four per centum (24%) of absolute alcohol, reckoned by volume.

"Person" defined.

The term "person" used in this article shall mean any individual, firm, partnership, association, corporation, or other groups or combination acting as a unit.

"Sale" defined.

The term "sale" as used in this article shall include any transfer, trade, exchange or barter in any manner or by any means whatsoever, for a consideration.

Regulations.

SEC. 502. The beverages enumerated in Section five hundred one of this article may be manufactured, transported, or sold in this State in the manner and under the regulations hereinafter set out.

SEC. 503. *Transportation.*

Transportation by public service companies.

The beverages enumerated in Section five hundred one of this article may be transported into, out of or between points in this State by railroad companies, express companies or by steamboat companies engaged in public service as common carriers and having regularly established schedules of service upon condition that such companies shall keep accurate records of the character and volume of such shipments, the character and number of packages or containers, shall keep records open at all times for inspection by the Commissioner of Revenue of this State or his authorized agent, and upon condition that such common carrier shall make report of all shipments of such beverages into, out of or between points in this State at such times and in such detail and form as may be required by the Commissioner of Revenue.

Records required.

Inspection of records by Commissioner.

Report of shipments.

Transportation by motor vehicles.

The beverages enumerated in Section five hundred one of this article may be transported into, out of or between points in this State over the public highways of this State by motor vehicles upon condition that every person intending to make such use of the highways of this State shall as a prerequisite thereto register such intention with the Commissioner of Revenue in advance of such transportation, with notice of the kind and character of such products to be transported and the license and motor number of each motor vehicle intended to be used in such transportation. Upon the filing of such information, together with an agreement to comply with the provisions of this article, the Commissioner of Revenue shall without charge therefor issue a numbered certificate to each such owner or operator for each motor vehicle intended to be used for such transportation, which numbered certificate shall be prominently displayed on the motor vehicle used in transporting the products named in Section five hundred one of this article. Every person transporting such products over any of the public highways of this State shall during the entire time he is so engaged have in his possession an invoice or bill of sale or other record evidence, showing the true name and address of the person from whom he has received such beverages, the character and contents of containers, the number of bottles, cases or gallons of such shipment, the true name and address of every person to whom deliveries are to be made. The person transporting such beverages shall, at the request of any representative of the Commissioner of Revenue, produce

Registration.

Issuance of certificate for transportation.

Display of certificate.

Invoices, etc. required.

Inspection of invoices, etc.

Failure to produce invoices, etc. or disclose information, prima facie evidence of violation.

Records required.

Inspection of records by Commissioner.

Report of shipments.

and offer for inspection said invoice or bill of sale or record evidence. If said person fails to produce invoice or bill of sale or record evidence, or if when produced, it fails to clearly and accurately disclose said information, the same shall be prima facie evidence of the violation of this article. Every person engaged in transporting such beverages over the public highways of this State shall keep accurate records of the character and volume of such shipments, the character and number of packages or containers, shall keep records open at all times for inspection by the Commissioner of Revenue of this State, or his authorized agent, and upon condition that such person shall make report of all shipments of such beverages into, out of or between points in this State at such times and in such detail and form as may be required by the Commissioner of Revenue.

Beverages for private use not subject to Act.

Transportation by boat regulated by provisions of Act applicable to transportation by motor vehicles.

Same as to permits and reports.

The purchase, transportation and possession of beverages enumerated in Section five hundred one of this article by individuals for their own use is permitted without restriction or regulation. The provisions of this section as to transportation of beverages enumerated in Section five hundred one of this article by motor vehicles over the public highways of this State shall in like manner apply to the owner or operator of any boat using the waters of the State for such transportation, and all of the provisions of this section with respect to permit for such transportation and reports to the Commissioner of Revenue by the operators of motor vehicles on public highways shall in like manner apply to the owner or operator of any boat using the waters of this State.

Manufacture.

SEC. 504. *Manufacture.*

License tax.

Amount.

Regulations as to sale.

Sale of ingredients.

The brewing or manufacture of beverages for sale enumerated in Section five hundred one of this article shall be permitted in this State upon the payment of an annual license tax to the Commissioner of Revenue in the sum of five hundred dollars ($500.00) for a period ending on the next succeeding thirtieth day of April and annually thereafter. Persons licensed under this section may sell such beverages in barrels, bottles, or other closed containers only to persons licensed under the provisions of this article for resale, and no other license tax shall be levied upon the business taxed in this section. The sale of malt, hops, and other ingredients used in the manufacture of beverages for sale enumerated in Section five hundred one of this article are hereby permitted and allowed: *Provided,* that any person engaged in the business of manufacturing in this State the wines described in Section five hundred one (b) shall be required to pay the following tax based on the number of gallons manufactured:

Tax based on number of gallons manufactured.

Where not more than one hundred gallons are manufactured for sale ..... $ 5.00

Where one hundred gallons and not more than two hundred gallons are manufactured for sale 10.00

Where two hundred gallons and not more than five hundred gallons are manufactured for sale 25.00

Where five hundred gallons and not more than one thousand gallons are manufactured for sale 50.00

Where one thousand gallons and not more than two thousand five hundred gallons are manufactured for sale 200.00

Where two thousand five hundred gallons or more are manufactured for sale 250.00

Wines made by residents for personal use exempted.

Nothing in this Act shall be construed to impose any tax upon any resident citizen of this State who makes native wines for the use of himself, his family and guests from fruits, grapes and berries cultivated or grown wild upon his own land.

Bottler's license.

Sec. 505. *Bottler's License.*

Amount of tax for beer, etc. bottlers.

Amount of tax for wine bottlers.

Tax for beer, etc. and wine bottlers.

No other license tax levied upon businesses taxed herein.

Any person who shall engage in the business of receiving shipments of the beverages enumerated in Section five hundred one (a) of this article, in barrels or other containers, and bottling the same for sale to others for resale, shall pay an annual license tax of two hundred fifty dollars ($250.00); and any person who shall engage in the business of bottling the beverages described in Section five hundred one (b) or (c), or both, shall pay an annual license tax of two hundred fifty dollars ($250.00): *Provided, however,* that any person engaged in the business of bottling the beverages described in Section five hundred one (a) and also the beverages described in Section five hundred one (b) and (c), or either, shall pay an annual license tax of four hundred dollars ($400.00). No other license tax shall be levied upon the businesses taxed in this section, but licensees under this section shall be liable for the payment of the taxes imposed by Section five hundred seventeen in the manner therein set forth.

Wholesaler's license.

Sec. 506. *Wholesaler's license.*

Amount of tax for wholesalers of beer, etc.

Revocation of license.

License to sell at wholesale, which shall authorize licensees to sell beverages described in Section five hundred one (a) in barrels, bottles, or other containers, in quantities of not less than one case or container to a customer, shall be issued as a State-wide license by the Commissioner of Revenue. The annual license under this section shall be one hundred and fifty dollars ($150.00) and shall expire on the next succeeding thirtieth day of April. The license issued under this section shall be revocable at any time by the Commissioner of Revenue for failure to comply with any of the conditions of this article with respect to the character of records required to be kept, reports to be made or payment of other taxes hereinafter set out.

Amount of tax for wholesalers of wine.

Tax for wholesalers of wine and beer, etc.

Licensees to sell at wholesale the beverages described in Section five hundred one (b) and (c), or either, shall pay an annual license tax of one hundred fifty dollars ($150.00): *Provided*, that a licensee to sell at wholesale the beverages described in Section five hundred one (a) and the beverages described in Section five hundred one (b) and (c), or either, shall pay an annual license tax of two hundred fifty dollars ($250.00).

Separate license for separate places of business.

If any wholesaler maintains more than one place of business or storage warehouse from which orders are received or beverages are distributed a separate license shall be paid for each separate place of business or warehouse.

Wholesale distributors further defined.

The owner or operator of every distributing warehouse selling, distributing or supplying to retail stores beverages enumerated in Section five hundred one of this article shall be deemed wholesale distributors within the meaning of this article and shall be liable for the tax imposed in this section and shall comply with the conditions imposed in this article upon wholesale distributors of beverages with respect to payment of taxes levied in this article and bond for the payment of such taxes.

No county tax.

Taxation by cities and towns.

No county shall levy a tax on any business under the provisions of this section, nor shall any city or town, in which any person, firm, corporation or association taxed hereunder has its principal place of business levy and collect more than one-fourth of the State tax levied under this section; nor shall any tax be levied or collected by any county, city or town on account of delivery of the products, beverages or articles enumerated in Section five hundred one of this Act.

Sales on railroad trains.

SEC. 507. *On railroad trains.*

Restrictions.

Amount of tax.

Reports to Commissioner.

The sale of beverages enumerated in Section five hundred one of this article shall be permitted on railroad trains in this State to be sold only in dining cars, buffet cars, Pullman cars, or club cars, and for consumption on such cars upon payment to the Commissioner of Revenue of one hundred dollars ($100.00) for each railroad system over which such cars are operated in this State for an annual State-wide license expiring on the next succeeding thirtieth day of April. No other license shall be levied upon licensees under this section, but every licensee under this section shall make a report to the Commissioner of Revenue on or before the tenth day of each calendar month covering sales for the previous month and payment of the tax on such sales at the rate of tax levied in this article.

SEC. 508. *Salesman's license.*

License for salesmen.

License for salesmen, which shall authorize the licensee to offer for sale within the State or solicit orders for the sale of within the State beverages enumerated in this article, shall be is-

sued by the Commissioner of Revenue upon the payment of an annual license tax of twelve dollars and fifty cents ($12.50) to the Commissioner of Revenue, such license to expire on the next succeeding thirtieth day of April. License to salesmen shall be issued only upon the recommendation of the vendor whom they represent, and no other license tax shall be levied under this section.

Amount of tax.

Issued on recommendation of vendor.

SEC. 509. *Character of license.*

License issued under authority of Section five hundred one (a) of this article shall be of two kinds:

Character of license.

(1) "On premises" license which shall be issued for bona fide restaurants, cafes, cafeterias, hotels, lunch stands, drug stores, filling stations, grocery stores, cold drink stands, tea rooms, or incorporated or chartered clubs. Such license shall authorize the licensee to sell at retail beverages for consumption on the premises designated in the license, and to sell the beverages in original packages for consumption off the premises.

"On premises."

(2) "Off Premises" license which shall authorize the licensee to sell at retail beverages for consumption only off the premises designated in the license, and only in the immediate container in which the beverage was received by the licensee.

"Off premises."

In a municipality the governing board of such municipality shall determine whether an applicant for license is entitled to a "premises" license under the terms of this article, and outside of municipalities such determination shall be by the Board of Commissioners of the county.

Determination of character of license to be issued.

SEC. 509½. *Retail license issued for sale of wines.*

Retail license issued for sale of wines.

License issued under authority of Section five hundred one (b) and (c) of this article shall be of two kinds:

1. "On Premises" licenses shall be issued to bona fide hotels, cafeterias, cafes and restaurants and shall authorize the licensees to sell at retail for consumption on the premises designated in the license; *provided* no such license shall be issued except to hotels, cafeterias, cafes and restaurants where prepared food is customarily sold and to such only as are licensed under the provisions of Section one hundred twenty-seven of the Revenue Act of one thousand nine hundred thirty-nine, and which, at the time of the application for such license, have been given a grade A or B rating by the State Department of Health.

"On premises."

2. "Off Premises" license shall authorize the licensee to sell said beverages at retail for consumption off the premises designated in the license, and all such sales shall be made in the immediate container in which the beverage was purchased by the licensee, and every such container shall have the tax stamp dis-

"Off premises."

played thereon, as provided in Section five hundred seventeen of this article.

Amount of retail license tax for sale of beer, etc.

SEC. 510. *Amount of retail license tax.*

The license tax to sell at retail under Section five hundred one (a) of this article for municipalities shall be:

(1) For "On Premises" license, fifteen dollars ($15.00).

(2) For "Off Premises" license, ten dollars ($10.00).

Retail license tax for sale of wines.

The license tax to sell at retail under Section five hundred one (b) or (c), or both, shall be:

(1) For "On Premises" license, fifteen dollars ($15.00).

(2) For "Off Premises" license, ten dollars ($10.00).

Additional licenses.

The rate of license tax levied in this section shall be for the first license issued to one person and for each additional license issued to one person an additional tax of ten per cent (10%) of the base tax, such increase to apply progressively for each additional license issued to one person.

SEC. 511. *Who may sell at retail.*

Application for license to sell at retail.

Every person making application for license to sell at retail beverages enumerated in Section five hundred one of this article, if the place where such sale is to be made is within a municipality, shall make application first to the governing board of such municipality, and the application shall contain:

Contents.

Name and residence of applicant.

(1) Name and residence of the applicant and the length of his residence within the State of North Carolina.

Resident requirement of one year.

(1½) That State, county, or city shall not issue license under this article to any person, firm, or corporation who has not been a bona fide resident of North Carolina for one year.

That no resident of the State shall obtain a license under this article and employ or receive aid from a non-resident for the purpose of defeating the above section.

Penalty.

The penalty for violating item one and one-half shall be a misdemeanor. All persons convicted shall be imprisoned not more than thirty days, nor fined more than two hundred dollars ($200.00).

Place of business.

(2) The particular place for which the license is desired, designating the same by a street and number, if practicable; if not, by such other apt description as definitely locates him.

Owner of premises.

(3) The name of the owner of the premises upon which the business licensed is to be carried on.

(4) That the applicant intends to carry on the business authorized by the license for himself or under his immediate supervision and direction. Intention to conduct business personally.

(5) A statement that the applicant is a citizen and resident of the State of North Carolina and not less than twenty-one years of age, that such applicant has never been convicted of a felony or other crime involving moral turpitude or adjudged guilty of violating the prohibition laws, either State or Federal, within the last two years prior to the filing of the application. Personal record.

The application must be verified by the affidavit of the petitioner made before a notary public or other person duly authorized by law to administer oaths. Verification of application.

If it appears from the statement of applicant or otherwise that such applicant has been convicted of a felony involving moral turpitude or adjudged guilty of violating the prohibition laws, either State or Federal, within the last two years prior to the filing of the application, or within two years from the completion of sentence, such license shall not be granted, and it shall afterwards appear that if any false statement is knowingly made in any part of said application and license received thereon, the license of the applicant shall be revoked and the applicant subjected to the penalty provided by law for misdemeanors. Disqualifications for license. Revocation for cause.

Before any such license shall be issued, the governing body of the municipality shall be satisfied that statements required by Subsections (1), (2), (3), (4), and (5) of this section are true.

SEC. 512. *County license to sell at retail.* County license to sell at retail.

License to sell at retail shall be issued by the Board of Commissioners of the county, and application for such license shall be made in the same manner and contain the same information set out in the preceding section with respect to municipal license. Issued by Board of Commissioners.

If the application is for license to sell within a municipality, the application must also show that license has been granted the applicant by the governing board of such municipality. The granting of a license by the governing board of a municipality shall determine the right of an applicant to receive a county license upon compliance with the conditions of this article. License to sell within a municipality.

If the application is for license to sell outside of a municipality within the county, the application shall also show the distance to the nearest church or public or private school from the place at which the applicant purposes to sell at retail. License to sell outside municipality.

No license shall be granted to sell within three hundred feet of any public or private school buildings or church building outside of incorporated cities and towns: *Provided,* the restriction set forth in this sentence shall not apply to unincorporated towns and villages having police protection. Within 300 ft. of school or church prohibited outside municipality. Exception as to towns having police protection.

The clerk of the Board of Commissioners of each county shall make prompt report to the Commissioner of Revenue of each Reports to Commissioner.

Amount of county tax.

license granted by the Board of Commissioners of such county. The county license fee shall be fixed at twenty-five dollars ($25.00), for the sale of beverages described in Section five hundred one (a) of this article, and twenty-five dollars ($25.00), for the sale of beverages described in Section five hundred one (b) and (c) of this article and the same shall be placed in the county treasury, for the use of the county.

Issuance mandatory upon compliance with requirements.

Sale prohibited during religious services within certain area.

SEC. 513. It shall be mandatory that the governing body of a municipality or county issue license to any person applying for the same when such person shall have complied with requirements of this article: *Provided*, no person shall dispense beverages herein authorized to be sold, within fifty feet of a church building in an incorporated city or town, or in a city or town having police protection whether incorporated or not, while religious services are being held in such church, or within three hundred feet of a church building outside the incorporate limits of a city or town while church services are in progress:

Exception.

And provided further that this section shall not apply in any territory where the sale of wine and/or beer prohibited by special legislative Act.

Revocation of license.

SEC. 514. *Revocation of license.*

Enumeration of grounds.

If any licensee violates any of the provisions of this article or any rules and regulations under authority of this article or fails to superintend in person or through a manager, the business for which the license was issued, or allows the premises with respect to which the license was issued to be used for any unlawful, disorderly, or immoral purposes, or knowingly employs in the sale or distribution of beverages any person who has been convicted of a felony involving moral turpitude or adjudged guilty of violating the prohibition laws within two years or otherwise fails to carry out in good faith the purposes of this article, the license of any such person may be revoked by the governing board of the municipality or by the Board of County Commissioners after the licensee has been given an opportunity to be heard in his defense. Whenever any person, being duly licensed under this article, shall be convicted of the violation of any of the prohibition laws on the premises herein licensed, it shall be the duty of the court to revoke said license. Whenever any license which has been issued by any municipality, any Board of County Commissioners, or by the Commissioner of Revenue has been revoked, it shall be unlawful to reissue said license for said premises to any person for a term of six months after the revocation of said license.

Revocation by county or municipality.

Revocation by the courts.

Unlawful to reissue for period of six months.

SEC. 515. *State license.*

State license to sell beer, ale, etc.

Every person who intends to engage in the business of retail sale of the beverages enumerated in Section five hundred one (a) of this article shall also apply for and procure a State license from the Commissioner of Revenue.

For the first license issued to each licensee five dollars ($5.00), and for each additional license issued to one person an additional tax of ten per cent (10%) of the five dollars base tax. That is to say, that for the second license issued the tax shall be five dollars and fifty cents ($5.50) annually, for third license six dollars ($6.00) annually, and an additional fifty cents (50c) per annum for each additional license issued to such person. Amount of tax for original and additional licenses.

SEC. 516. *State license to sell wine at retail.*

Every person who intends to engage in the business of selling wines as defined in section five hundred one (b) and (c), of this article shall procure a State license for such business which license shall in all cases be issued under the same restrictions, rules and regulations as set out in this article for the issuance of license for the sale of beverages described in Section five hundred one (a), of this article, and for which license the following schedule of taxes is hereby levied: State license to sell wine at retail. Schedule of tax.

(1). For "On Premises" license twenty-five dollars $25.00

(2). For "Off Premises" license five dollars 5.00

Such retail license shall authorize the sale of the beverages described in this section only on the premises described in the license, and if the same person operates more than one place at which said beverages are sold at retail, he shall obtain a license for each such place and pay therefor the license tax provided in this section. Separate license for separate places of business.

If the license issued to any person by any municipality or county to sell the beverages referred to in this article shall be revoked by the proper officers of such municipality or county, or by any court, it shall be the duty of the Commissioner of Revenue to revoke the State license of such licensee; and in such event, the licensee shall not be entitled to a refund of any part of the license tax paid. Revocations.

It shall be unlawful for any wholesale licensee to make any sale or delivery of the beverages described in Section five hundred one (b) or (c) to any person except persons who have been licensed to sell such beverages at retail, as prescribed in this article. Sales by wholesalers to persons not licensed as retailers, prohibited.

It shall be unlawful for any retail licensee to purchase any of the beverages described in Section five hundred one (b) or (c) from any person except wholesale licensees maintaining a place of business within this State and duly licensed under the provisions of this article. Purchases by retailers from other than wholesale licensees, prohibited.

SEC. 517. *Additional tax.*

(a) In addition to the license taxes herein levied, a tax is hereby levied upon the sale of beverages enumerated in Section Additional tax on beer, ale, etc.

$3.75 per barrel.

five hundred one (a) of this article of three dollars and seventy-five cents ($3.75) per barrel of thirty-one gallons, or the equivalent of such tax in containers of more or less than thirty-one gallons, and in bottles or other containers of not more than twelve ounces, a tax of one and one-quarter cents per bottle or container: *Provided* fruit cider of alcoholic content not exceeding that provided in this article may be sold in bottles or other containers of not more than six ounces at a tax of five-eighths of a cent per bottle or container.

1¼c per bottle.

Lower tax on fruit cider.

Payment of tax evidenced by tax paid crowns or lids affixed upon containers.

(b) The payment of the tax imposed by the preceding subsection shall be evidenced as to containers of not more than six ounces by the affixing of crowns or lids to such containers in which beverages are placed, received, stored, shipped, or handled, and upon which the tax has been paid at the rate of five-eighths of a cent per bottle or container. And the payment of the tax imposed by the preceding subsection shall be evidenced as to containers of more than six ounces and not more than twelve ounces by the affixing of crowns or lids to such containers in which beverages are placed, received, stored, shipped, or handled, and upon which a tax has been paid of one and one-quarter cents per bottle or container.

Crowns or lids affixed by manufacturer or bottler.

(c) Except as may be otherwise provided herein, each manufacturer or bottler manufacturing, selling or delivering beverages in this State shall, within twenty-four hours after the beverages are placed in original containers or bottles, and prior to delivery of any container of beverages to any wholesaler, distributor, retailer, jobber, or any other person whatsoever in this State, affix the proper crown or lid to each container.

By wholesaler or distributor prior to delivery.

(d) Except as may be otherwise provided herein, and unless such crowns or lids have been previously affixed, such crowns or lids shall be affixed as herein provided by each distributor or wholesaler in this State within twenty-four hours after such beverages come into the possession of such wholesaler and prior to the delivery of any container thereof to any retailer or other person in this State.

Crowns or lids prepared and sold under supervision of Commissioner.

Inscription.

Purchase from manufacturers designated by Commissioner.

(e) The Commissioner of Revenue shall prescribe, prepare, furnish and sell the crowns or lids provided for in this section under rules and regulations prescribed by him, and all such crowns and lids shall carry the following words: "N. C. Tax Paid," and shall be so designed as to enable the manufacturer or bottler to place his brand or trade mark thereon, and they shall be purchased by the manufacturer or bottler or other person after the payment of the tax imposed by this Act, only from such persons, firms or corporations as may be designated as manufacturers of such crowns and lids by the Commissioner of Revenue. The Commissioner of Revenue is authorized to enter into contracts on behalf of the State with one or more manufacturers for the manufacture, sale and distribution of such crowns or lids and shall re-

quire of such persons, firms and corporations so manufacturing, selling and distributing such crowns or lids a bond or bonds with a company authorized to do business in this State as surety payable to the State of North Carolina in such penalty and upon such conditions as in the opinion of the Commissioner of Revenue will adequately protect the State. The crowns and lids shall be manufactured, sold and distributed at the cost of the taxpayer. No manufacturer or bottler will be allowed to purchase the crowns or lids prescribed by this section unless such bottler or manufacturer has a valid permit from the Federal Government and the State of North Carolina, or the state in which such manufacturer or bottler is located, to manufacture, bottle, or sell the beverages herein described.

Contracts by Commissioner with manufacturers for sale and distribution of crowns and lids.

Restriction on sale of crowns or lids.

(f) At the time of delivering beverages to any person, firm or corporation in this State, each manufacturer or bottler shall make a true duplicate invoice showing the date of delivery, the amount and value of each shipment of beverages delivered, and the name of the purchaser to whom the delivery is made, and shall retain the same for a period of two years, subject to the use and inspection of the Commissioner of Revenue or his agents.

Duplicate invoices of beverage shipments.

Contents.

(g) Persons operating boats, dining cars, buffet cars or club cars upon or in which beverages are sold shall not be required to evidence the payment of the tax herein provided for by affixing crowns or lids as herein provided, but instead shall keep such records of the sales of such beverages in this State as the Commissioner of Revenue shall prescribe and shall submit monthly reports of such sales to the Commissioner of Revenue upon a form prescribed therefor by the Commissioner of Revenue, and shall pay the tax levied under this article at the time such reports are filed.

Record of sales and monthly reports by operators of boats, etc. in lieu of crowns or lids.

(h) It is the intent and purpose of this section to require all manufacturers and bottlers and other persons, except as herein provided, to affix the crowns or lids provided for herein to all original containers in which beverages are normally placed, prepared for market, received, sold or handled, before such beverages are sold, offered for sale, or held for sale within this State.

Construction of section.

(i) Any person, firm or corporation, except as herein provided, who shall sell the beverages enumerated in Section five hundred one (a) of this Act to wholesalers, retailers, or consumers which do not have affixed thereto the crowns or lids required by this section, or who shall purchase, receive, transport, store, or possess any beverage in containers to which the crowns or lids required herein are not affixed, shall be guilty of a misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court, and, in addition thereto, such person shall be liable for double the amount of the tax due under this Act and the Commissioner of Revenue shall have authority to assess said tax and

Violations made misdemeanor.

Double taxation as additional penalty.

penalty and cause the same to be collected in the same manner provided for the collection of other taxes levied in this Act.

Provisions applicable to foreign manufacturers.

(j) Manufacturers, bottlers, or vendors of beverages enumerated in Section five hundred one (a), from without this State, shall affix the crowns or lids to original containers of such beverages to be sold, offered for sale, held for sale, delivered or transported for delivery in this State.

Regulations by Commissioner for exempting beverages manufactured for out-of-State sale.

(k) The Commissioner of Revenue shall promulgate rules and regulations to relieve manufacturers or bottlers of beverages from the liability to affix crowns or lids to such containers of such beverages as are intended to be shipped and is thereafter shipped out of this State by such manufacturers or bottlers for resale out of this State.

Forgery or alteration of crowns or lids, etc. made a felony.

(l) Any person who falsely or fraudulently makes, forges, alters, or counterfeits any crowns or lids prescribed by the Commissioner of Revenue under the provisions of this section, or causes or procures to be falsely or fraudulently made, forged, altered, or counterfeited any such crowns or lids, or knowingly or wilfully utters, passes or tenders as true any such false, forged, altered, or counterfeited crowns or lids, or uses more than once any crown or lid provided for and required by this Act, or uses a crown or lid other than that prescribed herein for the purpose of evading the tax imposed under this Act, or for the purpose of aiding or abetting others to evade the tax imposed under this Act, shall be guilty of a felony, and, upon conviction thereof, shall be punished by imprisonment in the State's prison for not more than five years, or by a fine of not more than five thousand dollars ($5,000.00), or by both such fine and imprisonment in the discretion of the court.

Penalty.

Possession of non-tax paid beverages, made misdemeanor.

(m) Any person, firm or corporation having in his possession a container or containers of beverages not bearing the crowns or lids required to be affixed to such container, or who fails to produce upon demand by the Commissioner of Revenue or his agent, invoices of all beverages purchased or received by him within two years prior to such demand, unless upon satisfactory proof it is shown that such non-production is due to providential or other causes beyond his control, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.

Failure to produce invoices on demand, made misdemeanor.

Refusal to permit examination of record, etc. made misdemeanor.

(n) Any person who shall fail, neglect, or refuse to comply with or shall violate any provisions of this section, for which no specific penalty is provided, or who shall refuse to permit the Commissioner of Revenue or his agents to examine his books, papers, invoices and other records, his store of beverages in and upon any premises where the same are manufactured, bottled, stored, sold, offered for sale, or held for sale, shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.

Commissioner of Revenue charged with enforcement.

(o) The Commissioner of Revenue is hereby charged with the enforcement of the provisions of this section and hereby authorized and empowered to prescribe, adopt, promulgate, and enforce rules and regulations relating to any matter or thing pertaining to the administration and enforcement of the provisions of this section, and the collection of taxes, penalties, and interest imposed by this Act.

Transportation regulations by Commissioner.

(p) The Commissioner of Revenue is hereby authorized to prescribe, adopt, promulgate, and enforce the rules and regulations relating to the transportation of beverages enumerated in Section five hundred one through this State, and from points outside of this State to points within this State, and to prescribe, adopt, promulgate and enforce rules and regulations reciprocal to those of, or laws of, any other state or territory affecting the transportation of beverages manufactured in this State.

Crowns made available by Commissioner.

(q) The Commissioner of Revenue shall have authority at any time after the ratification of this Act to make provisions for the furnishing of crowns or lids required by this section.

Additional tax on wines.

(r) In addition to the license taxes herein levied, a tax is hereby levied upon the sale of beverages described in Section five hundred one (b) of this article of ten cents (10c) per gallon, and in Section five hundred one (c) of this article a tax of thirty cents (30c) per gallon.

Amount of tax.

Wine revenue stamps for containers.

The taxes levied under this section shall be paid through the use of wine revenue stamps, as hereinafter provided, by affixing stamps of proper denominations to the bottle or container in which or from which said wines are normally sold at retail. The stamps shall be affixed by the manufacturer, winery, bottler, wholesaler, or distributor in such a manner that their removal will require continued application of water or steam. The Commissioner of Revenue shall design, issue, sell, and distribute such stamps, of such denominations as are customary in the trade and as may be necessary, and shall require of every manufacturer, winery, bottler, wholesaler, and distributor that such stamps be purchased and affixed to each and every bottle or container of wine sold within this State. Stamps for containers of more or less than one gallon shall be proportioned to the tax levied in this section upon the several classes of wine defined in Section five hundred one (b) and (c), respectively, but the stamp on any single package shall not be less than one cent (1c).

Sale and distribution by Commissioner.

Possession or sale of unstamped wines prohibited.

It shall be unlawful for any dealer, either wholesale or retail, to have exposed for sale or in his possession, either in storage or on display, any wines taxable under this article without having attached to each bottle or other container the proper stamp indicating the payment of the tax herein levied, and in addition to other penalties for violation of this provision it shall be unlawful for the Department of Revenue, through any of its authorized

Confiscation authorized in addition to other penalties.

agents, to confiscate any stock on hand, on display, or in storage, of any dealer who has not complied with the provisions of this section. The taxes levied in this section are in addition to the taxes levied in Schedule E of this Act.

Tax payable by wholesale distributors or bottlers.

Sec. 518. *Tax payable by wholesale distributors.*

The tax levied in the preceding section upon the sale of beverages enumerated in Section five hundred one (a) shall be paid to the Commissioner of Revenue by the manufacturer or bottler of such beverages, and the tax levied in the preceding section upon the sale of the beverages enumerated in Sections five hundred one (b) and five hundred one (c) of this article shall be paid to the Commissioner of Revenue by the wholesale distributor or bottler of such beverages. As a condition precedent to the granting of

Bond adequate to cover tax liability.

license by the Commissioner of Revenue to any wholesale distributor, manufacturer or bottler of beverages under this article, the Commissioner of Revenue shall require each such wholesale distributor, manufacturer or bottler to furnish bond in an indemnity company licensed to do business under the insurance laws of this State in such sums as the Commissioner of Revenue shall find adequate to cover the tax liability of each such wholesale distributor, manufacturer or bottler, proportioned to the volume of business of each such wholesale distributor, manufacturer or bot-

Minimum amount.

tler, but in no event to be less than one thousand dollars ($1,000.00)

Deposit of securities in lieu of bond.

or to deposit Federal, State, county or municipal bonds in required amounts, such county and municipal bonds to be approved by the Commissioner of Revenue. The Commissioner of Revenue

Extensions.

may grant such extension of time for compliance with this condition as may be found to be reasonable.

Sec. 518½. *Non-resident manufacturers and wholesale dealers to be licensed.*

Application by non-resident manufacturers for license.

From and after April thirtieth, one thousand nine hundred thirty-nine, every non-resident desiring to engage in the business of making sales of the beverages described in Section five hundred one of this article, to wholesale dealers licensed under the provisions of this article, shall first apply to the Commissioner of Revenue for a permit so to do. The Commissioner of Revenue may require of every such applicant that a bond in a sum not to ex-

Bond conditioned upon compliance with provisions of Act, required.

ceed two thousand dollars ($2,000.00) be executed by such applicant and deposited with the Commissioner, conditioned upon the faithful compliance by such applicant with the provisions of this article, and particularly that such applicant shall not make sales of any of the beverages described in Section five hundred one to any person in this State except a duly licensed wholesale dealer.

Amount of tax.

Upon the payment of a license tax of one hundred fifty dollars ($150.00), if the Commissioner is satisfied that said applicant is a bona fide manufacturer or distributor of the beverages defined in Section five hundred one, he shall then issue a permit to such ap-

plicant which shall bear a serial number. Every holder of such non-resident-permit and license shall thereafter put the number of such permit on every invoice for any quantity of beverages sold by such licensee to any wholesale dealer in North Carolina. Upon the failure of any such licensee to comply with all the provisions of this article, the Commissioner of Revenue may revoke such permit or license.

Serial number of permit to be stamped on all invoices.

Revocation of permit or license.

Any resident manufacturer licensed under Section five hundred four of this article shall not be required to post the bond required by this section.

SEC. 519. *Payment of tax by retailers.*

Payment of tax by retailers.

The granting of license by any municipality or county under this article to any person to sell at retail the beverages enumerated under Section five hundred one of this article shall not be valid license for such sale at retail until such person shall have filed with the Commissioner of Revenue a bond in a surety company licensed by the Insurance Department to do business in this State in such sum as the Commissioner of Revenue may find to be sufficient to cover the tax liability of every such person, but in no event to be less than one thousand dollars ($1,000.00). The Commissioner of Revenue may waive the requirement of this section for indemnity bond with respect to any such person who may file a satisfactory contract or agreement with the Commissioner of Revenue that such person will purchase and sell beverages enumerated in Section five hundred one of this article only from wholesale distributors or bottlers licensed by the Commissioner of Revenue under this Act who pay the tax under Section five hundred seventeen of this article upon all such beverages sold to retail dealers in this State. The violation of the terms of any such contract or agreement between any such retail dealer and the Commissioner of Revenue by the purchase or sale of any of the beverages enumerated in Section five hundred one of this article, from any one other than a licensed wholesale distributor or bottler under this article shall automatically cancel the license of any such retail dealer and shall be prima facie evidence of intent to defraud, and any person guilty of violation of any such contract or agreement shall be guilty of a misdemeanor.

Bond required.

Minimum amount.

Acceptance of contract in lieu of bond.

Penalty for violation of contract.

SEC. 519½. *Tax on spirituous liquors.*

Tax on spirituous liquors.

In addition to other taxes levied in this article, and in lieu of taxes levied in Schedule E of this Act on the sale of spirituous liquors, there is hereby levied a tax of eight and one-half per cent (8½%) on the retail price of distilled liquors of every kind that may be sold in this State, including liquors sold in county liquor stores. *Provided however*, that in no event shall the amount paid under this section exceed one-half of the net profits from liquors sold through such stores in any county. The taxes levied in this

8½% on retail price.

Limitation.

Taxes payable monthly.

section shall be payable monthly, at the same time and in the same manner as taxes levied in Schedule E of this Act, and the liability for such tax shall be subject to all the rules, regulations and penalties provided in Schedule E and in other sections of this Act for the payment of taxes. One-fourteenth of the taxes collected under this section are intended to pay the necessary expenses of the State Alcohol Control Board, and for other necessary expenses in connection with the enforcement of such laws as may be enacted by this General Assembly for the sale of alcoholic liquors and to meet such appropriations there is hereby appropriated and made available for the purpose above set forth one-fourteenth of the amount of taxes collected under this section, such sum to be allocated for such purpose by the Director of the Budget upon request of the State Alcohol Control Board and expended and accounted for as other State funds, and the Director of the Budget is hereby given authority to estimate the revenues to be received under this section, to the end that a sufficient sum shall be made available for the purpose of defraying the expenses of the State Alcohol Control Board until sufficient revenues have been collected as provided hereunder for said purposes.

Amount of taxes payable to expenses of State Alcoholic Control Board.

Allocated by Director of Budget.

Spirituous liquors defined.

Spirituous liquors, as referred to in this section, shall be deemed to include any alcoholic beverages containing an alcoholic content of more than twenty-four per cent (24%) by volume.

Books, records and reports.

SEC. 520. *Books, records, reports.*

Every person licensed under any of the provisions of this article shall keep accurate records of purchase and sale of all beverages taxable under this article, such records to be kept separate from all purchases and sales of merchandise taxable under this article, including a separate file and record of all invoices. The Commissioner of Revenue or any authorized agent, shall at any time during business hours, have access to such records. The Commissioner of Revenue may also require regular or special reports to be made by every such person, at such times and in such form as the Commissioner may require.

Inspection.

Regular or special reports.

No license issued for sales upon school property.

SEC. 521. No license shall be issued for the sale of beverages enumerated in Section five hundred one of this article upon the campus or property of any public or private school or college in this State.

SEC. 522. *License shall be posted.*

Posting license.

Each form of license required by this article shall be kept posted in a conspicuous place at each place where the business taxable under this article is carried on, and a separate license shall be required for each place of business.

SEC. 523. *Administrative provisions.*

Administration by Commissioner of Revenue.

The Commissioner of Revenue and the authorized agents of the State Department of Revenue shall have and exercise all the rights, duties, powers, and responsibilities in enforcing this article that are enumerated in the Act of the General Assembly known as the Revenue Act in administering taxes levied in Schedule B of said Act.

Appropriation for administration.

SEC. 524. For the efficient administration of this article an appropriation is hereby made for the use of the Department of Revenue in addition to the appropriation in the Appropriation Bill of a sum equal to three per cent (3%) of the total revenue collections under this article to be expended under allotments made by the Budget Bureau of such part of the whole of such appropriation as may be found necessary for the administration of this article. The Budget Bureau may estimate the yield of revenue under this article and make advance apportionment based upon such estimate, and to provide for the necessary expense of providing materials, supplies, and other expenses needful to be incurred prior to the beginning of the next fiscal year, July first, one thousand nine hundred thirty-nine, the Budget Bureau may make such advance allotment from such estimate of revenue yield as it may find proper for the convenient and efficient administration of this article.

Violations made misdemeanor.

SEC. 525. Whosoever violates any of the provisions of this article, or any of the rules and regulations promulgated pursuant thereto, shall be guilty of a misdemeanor, and upon conviction thereof, be punished by a fine or by imprisonment, or by both fine and imprisonment, in the discretion of the court. If any licensee is convicted of the violation of the provisions of this article, or any of the rules and regulations promulgated pursuant thereto, the court shall immediately declare his permit revoked, and notify the County Commissioners accordingly, and no permit shall thereafter be granted to him within a period of three years thereafter. Any licensee who shall sell or permit the sale on his premises or in connection with his business, or otherwise, of any alcoholic beverages not authorized under the terms of this article, unless otherwise permitted by law, shall, upon conviction thereof, forfeit his license in addition to any punishment imposed by law for such offense.

Revocation of permit.

Forfeiture of license.

Partial invalidity clause.

SEC. 526. If any provision of this article, or the application thereof to any person or circumstances, is held invalid, the remainder of the article, and the application of such provisions to other persons or circumstances, shall not be affected thereby.

Conflicting laws repealed.

SEC. 527. That all laws and clauses of laws in conflict with this article, and including the provisions of Senate Bill three hundred sixty-seven, ratified on the fifth day of April, one thousand

Effective date.

nine hundred thirty-three, if any such are in conflict, are hereby repealed.

SEC. 528. All taxes levied in this article shall be in effect from and after April thirtieth, one thousand nine hundred thirty-nine.

ARTICLE VII

Schedule G.

SCHEDULE G

Gift taxes.

GIFT TAXES

SEC. 600. *Gift taxes; classification of beneficiaries; exemptions; rates of tax.*

General application.

State gift taxes, as hereinafter prescribed, are hereby levied upon the shares of the respective beneficiaries in all property within the jurisdiction of this State, real, personal and mixed, and any interest therein which shall in any one calendar year pass by gift made after the effective date of this article.

Gifts by non-residents.

Gifts prior to effective date exempt.

The taxes shall apply whether the gift is in trust or otherwise and whether the gift is direct or indirect. In the case of a gift made by a non-resident, the taxes shall apply only if the property is within the jurisdiction of this State. The taxes shall not apply to gifts made prior to the effective date of this article.

Properties in trust.

The tax shall not apply to the passage of property in trust where the power to revest in the donor title to such property is vested in the donor, either alone or in conjunction with any person not having substantial adverse interest in the disposition of such property or the income therefrom, but the relinquishment or termination of such power (other than by the donor's death) shall be considered to be a passage from the donor by gift of the property subject to such power, and any payment of the income therefrom to a beneficiary other than the donor shall be considered to be a passage by donor of such income by gift.

$1,000.00 exemption.

Gifts to any one donee not exceeding a total value of one thousand dollars ($1,000.00) in any one calendar year shall not be considered gifts taxable under this article.

Tax based on relationship between donor and donee.

The amount of tax on all gifts made taxable under this article shall be based on the relationship between the donor and donee, and graduated in proportion to the amount of such gifts. The rates of tax shall be as follows:

Schedule of tax rates where donee is lineal issue, ancestor, husband or wife, etc.

(a) Where the donee is lineal issue, or lineal ancestor, or husband, or wife of the donor, or child adopted by the donor in conformity with the laws of this State, or of any of the United States, or of any foreign kingdom or nation, or stepchild of

the donor, (for each one hundred dollars ($100.00) or fraction thereof):

First	$ 10,000	above exemption		1 per cent
Over	$ 10,000	and to $ 25,000		2 per cent
Over	$ 25,000	and to $ 50,000		3 per cent
Over	$ 50,000	and to $ 100,000		4 per cent
Over	$ 100,000	and to $ 200,000		5 per cent
Over	$ 200,000	and to $ 500,000		6 per cent
Over	$ 500,000	and to $1,000,000		7 per cent
Over	$1,000,000	and to $1,500,000		8 per cent
Over	$1,500,000	and to $2,000,000		9 per cent
Over	$2,000,000	and to $2,500,000		10 per cent
Over	$2,500,000	and to $3,000,000		11 per cent
Over	$3,000,000			12 per cent

Where donee is brother or sister or descendant thereof, or uncle or aunt.

(b) Where the donee is the brother or sister, or descendant of the brother or sister, or is the uncle or aunt by blood of the donor (for each one hundred dollars ($100.00) or fraction thereof):

First	$ 5,000			4 per cent
Over	$ 5,000	and to $ 10,000		5 per cent
Over	$ 10,000	and to $ 25,000		6 per cent
Over	$ 25,000	and to $ 50,000		7 per cent
Over	$ 50,000	and to $ 100,000		8 per cent
Over	$ 100,000	and to $ 250,000		10 per cent
Over	$ 250,000	and to $ 500,000		11 per cent
Over	$ 500,000	and to $1,000,000		12 per cent
Over	$1,000,000	and to $1,500,000		13 per cent
Over	$1,500,000	and to $2,000,000		14 per cent
Over	$2,000,000	and to $3,000,000		15 per cent
Over	$3,000,000			16 per cent

Other relationships.

(c) Where the donee is in any other degree of relationship than is hereinbefore stated, or shall be a stranger in blood to the donor, or shall be a body politic or corporate (for each one hundred dollars ($100.00) or fraction thereof):

First	$ 10,000			8 per cent
Over	$ 10,000	and to $ 25,000		9 per cent
Over	$ 25,000	and to $ 50,000		10 per cent
Over	$ 50,000	and to $ 100,000		11 per cent
Over	$ 100,000	and to $ 250,000		12 per cent
Over	$ 250,000	and to $ 500,000		13 per cent
Over	$ 500,000	and to $1,000,000		14 per cent
Over	$1,000,000	and to $1,500,000		15 per cent
Over	$1,500,000	and to $2,500,000		16 per cent
Over	$2,500,000			17 per cent

A donor shall be entitled to a total exemption of twenty-five thousand dollars ($25,000.00) to be deducted from gift made

Exemptions under subsection (a).

to donees named in Subsection (a) of this section, less the sum of amounts claimed and allowed as an exemption in prior calendar years. The exemption, at the option of the donor, may be taken in its entirety in a single year, or may be spread over a period not to exceed eight years. No exemption shall be allowed to donor for gifts made to donees named in Subsections (b) and (c) of this section.

No exemptions under subsections (b) and (c).

Other exemptions enumerated.

It is expressly provided, however, that the tax levied in this article shall not apply to so much of said property as shall so pass exclusively: (1) for State, county or municipal purposes within this State; (2) for charitable, educational, or religious purposes within this State; (3) to or for the exclusive benefit of any institution, association or corporation in this State, the property of which is exempt from taxation by the laws of this State; and (4) to or for the exclusive benefit of charitable, religious and educational corporations, foundations and trusts, not conducted for profit, incorporated or created or administered under the laws of any other state, when such other state levies no gift taxes upon property similarly passing from residents of such state to charitable, educational or religious corporations, foundations and trusts incorporated or created or administered under the laws of this State, or when such corporation, foundation or trust receives and disburses funds donated in this State for religious, charitable and educational purposes.

Transfers for inadequate consideration.

SEC. 601. *Transfer for less than adequate and full consideration.*

Where property is transferred for less than an adequate and full consideration in money or money's worth, then the amount by which the value of the property exceeded the value of the consideration shall, for the purpose of the tax imposed by this article, be deemed a gift and shall be included in computing the amount of gifts made during the calendar year.

Gifts of property.

SEC. 602. *Gifts made in property.*

If the gift is made in property, the fair market value thereof at the date of the gift shall be considered the amount of the gift.

SEC. 603. *Manner of determining tax; time of payment; application to Department of Revenue for correction of assessment.*

Date payable.

The tax imposed by this article shall be paid by the donor on or before the fifteenth day of March following the close of the calendar year.

Report of the gifts shall be made by the donor to the State Department of Revenue on blank forms prepared by the State Department of Revenue and furnished on application to any taxpayer, and the amount of tax due shall be paid at the time such report is made. The Department of Revenue shall audit the returns made under this article, and if it is found that the amount of tax paid is less than the amount lawfully due under the provisions of this article shall forward a statement of the taxes determined to the person or persons primarily chargeable with the payment thereof, such additional taxes to be collected under the same rules and regulations contained in this Act for the collection of other taxes, and if an over-payment should be found to have been made, a refund of such over-payment shall be made to the taxpayer. Within one year after the tax has been determined, any person aggrieved by the determination, may apply in writing to the Department of Revenue, which may make such corrections of the taxes as it may determine proper: *Provided, however*, that the rejection of the application in whole or in part by the Department of Revenue shall not prevent any person from applying to the court, as hereinafter provided, for the correction of said taxes.

Reports of gifts.

Audit by Department of Revenue.

Assessment of additional tax.

Refund of over-payment.

Corrections by Department of Revenue.

Right of appeal.

SEC. 604. *Penalties and interest.*

In any case where a donor fails to file a return at the proper time, the Department of Revenue shall assess a penalty of ten per centum (10%) of the tax determined by it, together with interest upon such tax and penalty at the rate of six per centum (6%) per annum from the date when such report should have been filed until the date of the assessment.

Penalties for failure to file return.

If any tax, or any assessment of tax, penalties and interest, or any part thereof, be not paid when due it shall bear interest at six per centum (6%) per annum from the date of assessment until paid.

Interest on delinquent payments.

SEC. 605. *Lien for tax; collection of tax.*

The tax imposed by this article shall be a lien upon all gifts that constitute the basis for the tax for a period of ten years from the time they are made. If the tax is not paid by the donor when due, each donee shall be personally liable, to the extent of their respective gifts, for so much of the tax as may have been assessed, or may be assessable thereon. Any part of the property comprised in the gift that may have been sold by the donee to a bona fide purchaser for an adequate and full consideration in money or money's worth shall be divested of the lien hereby imposed and the lien, to the extent of the value of such gift, shall attach to all the property of the donee (including after-acquired property) except any part sold to a

Duration of lien.

Liability of donees.

Bona fide purchasers protected.

Lien attaches to other property of donee.

bona fide purchaser for an adequate and full consideration in money or money's worth.

Enforcing payment.

If the tax is not paid within thirty days after it has become due, the Department of Revenue may use any of the methods authorized in this Act for the collection of other taxes to enforce the payment of taxes assessed under this article.

Liability of donor.

In any proceeding by warrant or otherwise to enforce the collection of said tax, the donor shall be liable for the full amount of the tax due by reason of all the gifts constituting the basis for such tax, and each donee shall be liable only for so much of said tax as may be due on account of his respective gift.

SEC. 606. *Period of limitation upon assessment; assessment upon failure or refusal to file proper return.*

Time limitation upon assessments.

Except as provided in the next succeeding paragraph the amount of taxes imposed by this article shall be assessed within three years after the return was filed.

In the case of a false or fraudulent return with intent to evade tax or of a failure to file a return the tax may be assessed at any time.

Assessment upon failure of donor to file return.

If a donor should fail or refuse on demand to file a correct and proper return as required by this article, the Department of Revenue may make an estimate of the amount of taxes due the State by such donor, and by the respective donees, from any information in its possession, and assess the taxes, penalties and interest due the State by such taxpayers.

SEC. 607. *Tax to be assessed upon actual value of property; manner of determining value of annuities, life estates and interests less than absolute interest.*

Determination of values.

Present interests.

Future interests.

Annuities and life interests.

Indefinite interests.

Said taxes shall be assessed upon the actual value of the property at the time of the transfer by gift. In every case where there shall be a gift to take effect in possession or enjoyment after the expiration of one or more life estates, or at any time in the future, the tax shall be assessed on the actual value of the property or the interest of the beneficiary therein at the time when he or she becomes entitled to the same in possession or enjoyment. The value of an annuity or a life interest in such property, or any interest therein less than an absolute interest, shall be determined by the annuity tables provided for by Section one thousand seven hundred and ninety-one of Consolidated Statutes. In every case in which it is impossible to compute the present value of any interest in property so passing, the Department of Revenue may effect

such settlement of the tax as it shall deem to be for the best interest of the State, and payment of the same so agreed upon shall be a full satisfaction of such taxes.

SEC. 608. *Application for relief from taxes assessed; appeal.*

Application for revision.

A taxpayer may apply to the Commissioner of Revenue for revision of the tax assessed against him at any time within three years from the time of the filing of the return or from the date of the notice of assessment of any additional tax. The commissioner shall grant a hearing thereon, and if upon such hearing he shall determine that the tax is excessive or incorrect, he shall resettle the same according to law and the facts, and adjust the computation of tax accordingly. The commissioner shall notify the taxpayer of his determination, and shall refund to the taxpayer the amount, if any, paid in excess of the tax found by him to be due. The taxpayer shall have the right of appeal from any assessment, made by the Commissioner of Revenue in the same manner and form as set out in Section three hundred and forty-one of Article IV of this Act with respect to income taxes.

Hearing.

Adjustment.

Notice of decision.

Right of appeal.

SEC. 609. *Returns; time of filing; extension of time for filing.*

Returns.

Any person who within the calendar year nineteen hundred thirty-nine, after the effective date of this article, or any calendar year thereafter, makes any gift or gifts taxed by this article shall report in duplicate, under oath, to the Department of Revenue, on forms provided for that purpose, showing therein an itemized schedule of all such gifts, the name and residence of each donee and the actual value of the gift to each, the relationship of each of such persons to the donor, and any other information which the Department of Revenue may require. Such returns shall be filed on or before the fifteenth day of March following the close of the calendar year. The Department of Revenue may grant a reasonable extension of time for filing a report whenever in its judgment good cause exists.

Contents.

Time for filing.

Extension of time for cause.

ARTICLE VIII

SCHEDULE H

Schedule H.

INTANGIBLE PERSONAL PROPERTY TAX

Intangible personal property.

SEC. 700. *Intangible personal property.*

Purpose of tax.

The intangible personal properties enumerated and defined in this article or schedule are hereby classified under authority of Section three, Article V of the Constitution, and the taxes levied thereon are for the benefit of the State and the political

sub-divisions of the State as hereinafter provided and said taxes so levied for the benefit of the political sub-divisions of the State are levied for and on behalf of said political sub-divisions of the State to the same extent and manner as if said levies were made by the governing authorities of the said sub-divisions for distribution therein as hereinafter provided.

Sec. 701. *Money on deposit.*

Bank deposits.

All money on deposit (including certificates of deposit and postal savings) with any bank or other corporation, firm or person doing a banking business, whether such money be actually in or out of this State, having a business, commercial

Amount of tax.

or taxable situs in this State, shall be subject to an annual tax, which is hereby levied, of ten cents (10c) on every one hundred dollars ($100.00) of the total amount of such deposit without deduction for any indebtedness or liabilities of the taxpayer.

Determination of amount of deposits.

For the purpose of determining the amount of deposits subject to this tax every such bank or other corporation, firm or person doing a banking business shall set up the credit balance of each depositor on the fifteenth day of each March,

Quarterly credit balance.

June, September and December in the calendar year next preceding the due date of tax return, and the average of such quarterly credit balances shall constitute the amount of deposit of each depositor subject to the tax herein levied; for

Exemptions.

the purposes of this section accounts having an average of quarterly balances for the year of less than one hundred dollars ($100.00) may be disregarded.

Tax paid by officials of banks, etc.

The tax levied in this section upon money on deposit shall be paid by the cashier, treasurer or other officer or officers of every such bank or other corporation, firm or person doing a banking business in this State by report and payment to the Commissioner of Revenue on or before March fifteenth of each year; any taxes so paid as agent for the depositor shall be recovered from the owners thereof by the bank or other corporation, firm or person doing a banking business in this State

Deducted from depositors' accounts.

by deduction from the account of the depositor on December sixteenth of each year or on such date thereafter as in the ordinary course of business it becomes convenient to make such

Certificates of deposit.

charge. The tax on deposits represented by time certificates shall be chargeable to the original depositor unless such depositor has given notice to the depository bank of transfer of such certificate of deposit. Accounts that have been closed

Taxes charged against depositor directly if credit balance is insufficient.

during the year, leaving no credit balance against which the tax can be charged, may be reported separately to the Commissioner of Revenue and the tax due on such accounts shall become a charge directly against the depositor, and such tax may

be collected by the Commissioner of Revenue from the depositor in the same manner as other taxes levied in this Act; the bank or other corporation, firm or person doing a banking business in this State shall not be held liable for the payment of the tax due on accounts so reported. None of the provisions of this section shall be construed to relieve any taxpayer of liability for a full and complete return of postal savings and of all money on deposit outside this State having business, commercial or taxable situs in this State.

Postal savings and money deposited outside of State subject to taxation.

The tax levied in this section shall not apply to deposits by one bank in another bank, nor to deposits of the United States, State of North Carolina, political sub-divisions of this State or agencies of such governmental units. Deposits representing the actual payment of benefits to World War Veterans by the Federal Government, when not reinvested, shall not be subject to the tax levied in this section.

Exemptions.

Money on hand.

SEC. 702. *Money on hand.*

All money on hand (including money in safe deposit boxes, safes, cash registers, etc.) on December thirty-first of each year, having a business, commercial or taxable situs in this State, shall be subject to an annual tax, which is hereby levied, of twenty-five cents (25c) on every one hundred dollars ($100.00) of the total amount of such money on hand without deduction for any indebtedness or liabilities of the taxpayer.

Amount of tax.

Accounts receivable.

SEC. 703. *Accounts receivable.*

All accounts receivable on December thirty-first of each year, having a business, commercial or taxable situs in this State, shall be subject to an annual tax, which is hereby levied, of twenty-five cents (25c) on every one hundred dollars ($100.00) of the face value of such accounts receivable: *Provided*, that from the face value of such accounts receivable there may be deducted the accounts payable of the taxpayer: *Provided further*, that no deduction in any case shall be allowed under this section of any indebtedness of the taxpayer on account of capital outlay, permanent additions to capital or purchase of capital assets. The term "accounts payable" as used in this section shall not include: (a) reserves, secondary liabilities or contingent liabilities except upon satisfactory showing that the taxpayer will actually be compelled to pay the debt or liability; (b) taxes of any kind owing by the taxpayer; (c) debts owed to a corporation of which the taxpayer is parent or subsidiary or with which the taxpayer is closely affiliated by stock ownership or with which the taxpayer is subsidiary of same parent corporation unless the credits created by such debts are listed if so required by law for ad valorem or prop-

Amount of tax.

Deduction of accounts payable.

Exception.

"Accounts payable" defined.

erty taxation, for taxation at the situs of such credits; or (d) debts incurred to purchase assets which are not subject to taxation at the situs of such assets.

Pro rata deduction of accounts payable.

From the total face value of accounts receivable returned to this State for taxation by or in behalf of any taxpayer who or which also owns other such accounts receivable as have situs outside of this State, accounts payable of the taxpayer may be deducted only in the proportion which the total face value of accounts receivable taxable under this section bears to the total face value of all accounts receivable of the taxpayer.

SEC. 704. *Bonds, notes, and other evidences of debt.*

Bonds, notes, etc.

All bonds, notes, demands, claims and other evidences of debt however evidence, whether secured by mortgage, deed of trust, judgment or otherwise, or not so secured, having a business, commercial or taxable situs in this State on December thirty-first of each year shall be subject to annual tax, which is hereby levied of fifty cents (50c) on every one hundred dollars ($100.00) of the actual value thereof: *Provided*, that from the actual value of such bonds, notes, demands, claims and other evidences of debt there may be deducted like evidences of debt owed by the taxpayer on December thirty-first of the same year. The term "like evidences of debt" deductible under this section shall not include: (a) accounts payable; (b) taxes of any kind owing by the taxpayer; (c) reserves, secondary liabilities or contingent liabilities except upon satisfactory showing that the taxpayer will actually be compelled to pay the debt or liability; (d) evidences of debt owed to a corporation of which the taxpayer is parent or subsidiary or with which the taxpayer is closely affiliated by stock ownership or with which the taxpayer is subsidiary of same parent corporation, unless the credits created by such evidences of debt are listed, if so required by law for ad valorem or property taxation, for taxation at the situs of such credits; or (e) debts incurred to purchase assets which are not subject to taxation at the situs of such assets.

Amount of tax.

Deductions allowed for "like evidences of debt."

"Like evidences of debt" defined.

Pro-rata deduction of "like evidences of debt."

From the total actual value of bonds, notes, demands, claims and other evidences of debt returned to this State for taxation by or in behalf of any taxpayer who or which also owns other such evidences of debt as have situs outside of this State, like evidences of debt owed by the taxpayer may be deducted only in the proportion which the total actual value of evidences of debt taxable under this section bears to the total actual value of all like evidences of debt owned by the taxpayer.

Exemptions.

The tax levied in this section shall not apply to bonds, notes and other evidences of debt of the United States, State of

North Carolina, political sub-divisions of this State or agencies of such governmental units, but the tax shall apply to all bonds and other evidences of debt of political sub-divisions and governmental units other than those specifically excluded herein.

Proof required of plaintiffs in actions brought for collection of debt.

In every action or suit in any court for the collection on any bonds, notes, demands, claims or other evidences of debt, the plaintiff shall be required to allege in his pleadings or to prove at any time before final judgment is entered (1) that such bonds, notes or other evidences of debt have been assessed for taxation for each and every tax year, under the provisions of this article, during which the plaintiff was owner of same, not exceeding five years prior to that in which the suit or action is brought; or (2) that such bonds, notes or other evidences of debt sued upon are not taxable hereunder in the hands of the plaintiff; or (3) that the suitor has not paid, or is unable to pay such taxes, penalties and interest as might be due, but is willing for the same to be paid out of the first recovery on the evidence of debt sued upon. When in any action at law or suit in equity it is ascertained that there are unpaid taxes, penalties and interest due on the evidence of debt sought to be enforced, and the suitor makes it appear to the court that he has not paid or is unable to pay said taxes, penalties and interest, but is willing for the same to be paid out of the first recovery on the evidence of debt, the court shall have authority to enter as a part of any judgment or decretal order in said proceedings that the amount of taxes, penalties and interest due and owing shall be paid to the proper officer out of the first collection on said judgment or decree. The title to real estate heretofore or hereafter sold under a deed of trust shall not be drawn in question upon the ground that the holder of the notes secured by such deed of trust did not list and return the same for taxation as required by this article.

Courts authorized to provide for payment of tax, penalties, etc. in judgments for recovery.

Title to property sold under deed of trust unaffected.

SEC. 705. *Shares of stock.*

Shares of stock.

All shares of stock owned by residents of this State or having business, commercial or taxable situs in this State on December thirty-first of each year, with the exceptions hereinafter provided, shall be subject to an annual tax, which is hereby levied, of thirty cents (30c) on every one hundred dollars ($100.00) of the total fair market value thereof.

Amount of tax.

Exemptions.

The tax herein levied shall not apply to shares of stock in banks, banking associations, trust companies or insurance companies not exempted from an income tax under Subsection F of Section three hundred eleven, which are otherwise taxed in this State, nor to shares of stock in building and loan associations which pay a tax as levied under Section one hundred thirty-eight (Section 138) of this Act; nor shall the tax apply

to shares of stock in corporations which pay to this State a franchise tax on their entire capital stocks, surplus and undivided profits or entire gross receipts as provided under Article III, Schedule C, of this Act, together with the tax upon all of the net income, if any, of such corporations as provided under Article IV of this Act. With respect to corporations which pay to this State a franchise tax on a part of their capital stock, surplus and undivided profits or part of their gross receipts as provided in Article III, Schedule C, of this Act, and a tax upon a part of the net income of such corporations as provided under Article IV of this Act, when such income is earned, there shall be exempt so much of the fair market value of such shares of stock as is represented by the percentage of net income on which tax is paid to this State.

SEC. 706. *Beneficial interest in foreign trusts.*

Beneficial interest in foreign trusts.

The beneficial or equitable interest on December thirty-first of each year of any resident of this State, or of a non-resident having a business, commercial or taxable situs in this State, in any trust, trust fund or trust account (including custodian accounts) held by a foreign fiduciary shall be subject to an annual tax, which is hereby levied; and the amount of tax due and payable by virtue of the ownership of such beneficial or equitable interest shall be determined according to the following rules:

Determination of values and amount of tax.

Unless otherwise indicated by the articles of the trust agreement, the value of said beneficial or equitable interest shall be deemed to apply proportionately to all types or classes of property held in such trust account; each value of said beneficial or equitable interest thus proportioned to the several types or classes of intangible personal property shall be subject to the rate of tax applicable to that type or class of intangible personal property; and the total tax due on any such beneficial or equitable interest shall be the tax which would have accrued had the pro rata share of the property been owned outright by the beneficiary.

Inapplicable to corpus of foreign trust.

Nothing in this section shall be construed to authorize the imposition of any tax upon the corpus of a trust foreign to this State.

SEC. 707. *Funds on deposit with insurance companies.*

Funds on deposit with insurance companies.

All funds on deposit with insurance companies on December thirty-first of each year, belonging to or held in trust for a resident of this State or having acquired a taxable situs in this State, shall be subject to an annual tax, which is hereby levied, of twenty-five cents (25c) on every one hundred dollars

Amount of tax.

($100.00) thereof. The term "funds on deposit" as used in this section shall mean all funds accrued or accruing by virtue of the death of the insured or the original maturity of a policy contract where the party or parties entitled to receive such funds might withdraw same at their option upon stipulated notice. "Funds on deposit" defined.

The tax levied in this section shall be paid by the treasurer, cashier or other officer or officers of every insurance company doing business in this State by report and payment to the Commissioner of Revenue on or before March fifteenth of each year; any taxes so paid as agent for the party or parties entitled to receive such funds shall be recovered from the owners thereof by deduction from the account of the owner on December thirty-first of each year or at such other time as in the ordinary course of business it becomes convenient to make such charge. Tax paid by officials of insurance companies. Deducted from account of owners.

SEC. 708. *When due and payable; date lien attaches; extensions.*

All taxes levied in this article or schedule shall become due and payable on the fifteenth day of March of each year, and the lien of such taxes shall attach annually to all real estate of the taxpayer within this State as of December thirty-first next preceding the date that such taxes become due and payable, regardless of the time at which liability for the tax may arise or the exact amount thereof be determined; and said lien shall continue until such taxes, with any interest, penalty and costs which shall accrue thereon, shall have been paid. Due date of taxes. Lien on real estate of taxpayer.

Every person, firm, association, corporation, clerk of court, guardian, trustee, executor, administrator, receiver, assignee for creditors, trustee in bankruptcy or other fiduciary owning or holding any intangible personal properties defined and classified and/or liable for or required to pay any tax levied, in this article or schedule, either as principal or agent, shall make and deliver to the Commissioner of Revenue in such form as he may prescribe a full, accurate and complete return of such tax liability; such return, together with the total amount of tax due, shall be filed on or before the fifteenth day of March in each year. Returns to Commissioner of Revenue.

Every non-resident person, every foreign corporation, and every partnership consisting in whole or in part of non-resident person or persons, doing business in this State, is hereby declared to have a domicile within this State, and so much of the intangible property defined in this article or schedule, belonging to such non-resident as was acquired in the conduct of and as a part of the business carried on in this State, or for any reason having acquired a business, commercial or taxable Non-residents doing business in State declared domiciled within State.

Method of taxing.

situs in this State, shall be reported by and taxed to such non-resident in the same manner and to the same extent as if said non-resident was a resident of this State. A taxpayer of this State having an established business outside this State shall not be taxable in this State on such intangible personal properties as have a business, commercial or taxable situs in another state.

Forms furnished by Commissioner.

The Commissioner of Revenue shall cause to be prepared blank forms for said returns and shall cause them to be distributed throughout the State, and to be furnished upon application; but failure to receive or secure form shall not relieve any taxpayer from the obligation of making full and complete return of intangible personal properties as provided in this article or schedule.

Application for extensions.

Extension granted for cause.

6% interest chargeable from due date of return.

The return required by this article or schedule shall be due on or before the date specified unless written application for extension of time in which to file, containing reasons therefor, is made to the Commissioner of Revenue on or before due date of return. The Commissioner of Revenue for good cause may extend the time for filing any such return, provided interest at the rate of six per cent (6%) per annum from due date of return is paid upon the total amount of tax due.

SEC. 709. *Penalties; unlawful to refuse to make returns.*

Penalty for delayed returns and payments of taxes.

If any taxpayer, without intent to evade any tax imposed by this article or schedule, shall fail to file a return and pay the tax, if any be due, at the time required by or under the provisions of this article or schedule, but who shall voluntarily file a complete and correct return and pay the tax due within sixty days after due date, there shall be added to the tax an additional amount equal to five per cent (5%) thereof, said additional amount in no case to be less than one dollar ($1.00), together with interest at the rate of one-half of one per cent (½ of 1%) per month or fraction thereof from the time said return was required to be filed until paid.

Penalty for failure to file return and pay tax.

If any taxpayer fails voluntarily to file a return and/or pay the tax, if any be due, within sixty days after due date as required by this article or schedule, there shall be added to the tax an additional amount equal to twenty-five per cent (25%) thereof, said additional amount in no case to be less than two dollars ($2.00), together with interest at the rate of one-half of one per cent (½ of 1%) per month or fraction thereof from time said return was required to be filed until paid.

Penalty for failure or refusal, after notice, to file proper return.

If any taxpayer who has failed to file a return or has filed an incorrect or insufficient return, and who has been notified

by the Commissioner of Revenue of such delinquency, refuses or neglects within thirty days after such notice to file a proper return, the Commissioner of Revenue shall determine the tax liability of such taxpayer, according to his best information and belief, and shall assess the same at double the amount so determined plus the penalties and interest provided in this section for failure voluntarily to file return within sixty days after due date; the assessment so made by the Commissioner of Revenue shall be prima facie correct.

False and fraudulent returns and other attempts to evade tax, made misdemeanor.

It shall be unlawful for any person to fail or refuse to make the return provided for in this article or schedule, or to make any false or fraudulent return or false statement in any return of the tax, or any part thereof, imposed by this article; or for any person to aid or abet another in any attempt to evade the payment of the tax, or any part thereof, imposed by this article; or for the president, vice-president, secretary, or treasurer of any company to make or permit to be made for any company or association any false return, or any false statement in any return required by this article, with the intent to evade the payment of any tax hereunder; or for any person to fail or refuse to permit the examination of any book, paper, account, record, or other data by the Commissioner of Revenue or his duly appointed agent, or to refuse to offer testimony or produce any record as required. Any person violating any of the provisions of this section shall be guilty of a misdemeanor, and on conviction thereof shall be fined not more than five hundred dollars ($500.00) or imprisoned not exceeding six months, or punished by both such fine and imprisonment, at the discretion of the court within the limitations aforesaid. In addition to the foregoing penalties, any person who shall knowingly swear to or verify any false or fraudulent statement, with the intent aforesaid, shall be guilty of the offense of perjury, and, on conviction thereof, shall be punished in the manner provided by law for the offense of perjury. Any company for which a false return shall be made or a return containing a false statement as aforesaid, shall be guilty of a misdemeanor, and may be punished by a fine of not more than one thousand dollars ($1,000.00).

Penalty provided.

Verification of false statements declared perjury.

SEC. 710. *Examination of returns; additional taxes.*

Commissioner to examine returns and compute tax.

As soon as practicable after the return is filed the Commissioner of Revenue shall examine same together with any other facts within his knowledge, and shall compute the tax, and the amount so computed shall be the tax. If the tax found due shall be greater than the amount theretofore paid, the deficiency shall be paid to the Commissioner of Revenue within thirty days after date of notice to the taxpayer of such de-

Payment of deficiency.

Refund of over-payments.

ficiency, and any over-payment of tax shall be returned to the taxpayer within thirty days after it is ascertained.

Penalty for under-statements made in good faith.

If the return is made in good faith and the under-statement of the tax is not due to any fault of the taxpayer, there shall be no penalty on additional tax added because of such under-statement, but interest shall be added to the amount of the deficiency at the rate of six per cent (6%) per annum until paid.

Penalty for under-statements due to negligence.

If the under-statement is due to negligence on the part of the taxpayer, but without intent to defraud, there shall be added to the amount of the deficiency five per cent (5%) thereof, together with interest at the rate of six per cent (6%) per annum until paid.

Penalty for fraudulent under-statements.

If the under-statement is found by the Commissioner of Revenue to be false or fraudulent, with intent to evade the tax, any additional tax found to be due and payable shall be doubled together with interest at the rate of six per cent (6%) per annum upon the total amount of tax so found. The interest provided for in this section shall in all cases be computed from the date the tax was originally due to the date of payment.

Proposed assessment made by Commissioner, if intangible property not assessed by taxpayer.

If the Commissioner of Revenue discovers from the examination of the return or otherwise that the intangible personal property of any taxpayer, or any portion thereof, has not been assessed, he may, at any time within three years after the time when the return was due, give notice in writing to the taxpayer of such deficiency.

Taxpayer granted right of hearing on proposed assessment.

Any taxpayer feeling aggrieved by such proposed assessment shall be entitled to a hearing before the Commissioner of Revenue, if within thirty days after giving notice of such proposed assessment he shall apply for such hearing in writing, explaining in detail his objections to same. If no request for such hearing is so made, such proposed assessment shall be final and conclusive.

Decision by Commissioner, and notice to taxpayer.

If the request for hearing is made, the taxpayer shall be heard by the Commissioner of Revenue, and after such hearing the Commissioner of Revenue shall render his decision. The taxpayer shall be advised of his decision and such amount shall be due within ten days after notice is given. The provisions of this article with respect to revision and appeal shall apply to the tax so assessed. The limitation of three years to the assessment of such tax or an additional tax shall not apply to the assessment of additional taxes upon fraudulent returns nor upon failure to file returns.

SEC. 711. *Information from the source; Commissioner of Revenue empowered to make regulations.*

Reports by corporations as to shares of stock and bonds subject to taxation.

In addition to the other requirements of this article or schedule it shall be the duty of every domestic corporation and every foreign corporation doing business and/or owning property in

this State, the shares of stock and bonds of which are subject to tax under the provisions of this article or schedule, to report not later than the fifteenth day of March of each year to the Commissioner of Revenue, in such form and manner as he may prescribe, the name and address of each registered stockholder or bondholder resident in this State as of the thirty-first day of December of each year; such report shall also include the number of shares of stock and/or the number of bonds, the par or face value of each, the dividends or interest paid on each such security during the calendar year next preceding date of report, all transfers of record made from residents of this State between the first and thirty-first days of December next preceding the date of the report herein required, and such other and further information as the Commissioner of Revenue may require.

Contents of report.

The Commissioner of Revenue shall from time to time promulgate such rules and regulations, not inconsistent with this article or schedule for making returns and for the ascertainment, assessment and collection of the taxes imposed hereunder as he may deem necessary to enforce its provisions.

Rules and regulations by Commissioner.

SEC. 712. *Moneyed capital coming into competition with the business of national banks.*

Of all moneyed capital coming into competition with the business of national banks there is hereby annually levied a tax at the same rate as is assessed upon the shares of stock of national banks located in this State at the place of residence of such national banks, less deduction of real estate otherwise taxed in this State, to the same extent and under the same corresponding conditions as this deduction is allowed in the assessment of such shares of stock of national banks located in this State: *Provided,* that bonds, notes or other evidences of indebtedness in the hands of individual citizens not employed or engaged in the banking or investment business and representing merely personal investments not made in competition with such business shall not be deemed moneyed capital within the meaning of this section.

Moneyed capital in competition with National Banks.

Amount of tax.

Deduction.

Exemptions.

SEC. 713. *Conversion of intangible personal property to evade taxation not to defeat assessment and collection of proper taxes; taxpayer's protection.*

Any taxpayer who shall, for the purpose of evading taxation under the provisions of this article or schedule, within thirty days prior to December thirty-first of any year, either directly or indirectly, convert any intangible personal property taxable under the provisions of this article or schedule, or with like intent shall, either directly or indirectly, convert such intangible

Conversion of intangibles to evade taxation.

Method of taxing.

Conversion within 30 days after first day of year, prima facie evidence of intent to evade.

personal property into a class of property which is taxable in this State at a lower rate than the intangible personal property so converted, shall be taxable on such intangible personal property as if such conversion had not taken place; the fact that such taxpayer within thirty days after December thirty-first of any year, either directly or indirectly, converts such property non-taxable in this State or taxable at the lower rate in this State into intangible personal property taxable at the higher rate shall be prima facie evidence of intent to evade taxation by this State, and the burden of proof shall be upon such taxpayer to show that the first conversion was for a bona fide purpose of investment and not for the purpose of evading taxation by this State.

Taxpayers making complete returns relieved of liability for failure to previously list.

Taxpayers making a complete return on or before March fifteenth of each year of all their holdings of intangible personal property as provided by this article or schedule (or by similar provisions of prior Revenue Act) shall not thereafter be held liable for failure to list such intangible personal property with the local taxing units of this State in previous years; the taxes levied in this article or schedule shall be in lieu of all other property taxes in this State on such intangible personal property.

SEC. 714. *Conditional and other exemptions.*

Conditional and other exemptions.

None of the taxes levied in this article or schedule shall apply to religious, educational, charitable or benevolent organizations not conducted for profit, nor to any funds held irrevocably in trust exclusively for the maintenance and care of places of burial; insurance companies reporting premiums to the Insurance Commissioner of this State and paying a tax thereon under the provisions of Section two hundred eight of this Act shall not be subject to the provisions of Sections seven hundred three, seven hundred four and seven hundred five of this article or schedule; building and loan associations paying a tax under the provisions of Section one hundred thirty-eight of this Act shall not be subject to the provisions of Sections seven hundred three, seven hundred four and seven hundred five of this article or schedule; banks, banking associations and trust companies shall not be subject to the tax levied in this article or schedule on evidences of debt held by them when said evidences of debt represent investment of funds on deposit with such banks, banking associations and trust companies: *Provided,* that each such institution must, upon request by the Commissioner of Revenue, establish in writing its claim for exemption as herein provided. The exemptions in this section shall apply only to those institutions, and only to the extent, specifically mentioned, and no other.

Collection of tax on deposits by Clerks of Superior Courts.

A clerk of any court of this State may, upon written application therefor, obtain from the Commissioner of Revenue a certificate relieving the depository bank of such clerk from the duty of collecting the tax levied in this article or schedule from deposits of said clerk: *Provided,* that such clerk of court shall be liable under his official bond for the full and proper remittance to the Commissioner of Revenue under the provisions of this article or schedule of taxes due on any deposits so handled.

SEC. 715. *Disposition and distribution of taxes collected; purpose of tax.*

Commissioner to keep record by counties of tax collected.

Annual report to State Board of Assessment.

The Commissioner of Revenue shall keep a separate record by counties of taxes collected under the provisions of this article or schedule, and shall not later than the twentieth day of July of each year submit to the State Board of Assessment an accurate account of such taxes collected during the fiscal year ending June thirtieth next preceding, showing separately by sections the total collections less refunds in each county of the State. The State Board of Assessment shall examine such reports and, if found to be correct, shall certify a copy of same to the State Auditor and State Treasurer. Forty per cent (40%) of the total amount of such revenue shall be retained by the State for use in the maintenance and operation of the public school system of the State, and sixty per cent (60%) of such revenue shall be distributed to the counties and municipalities of the State on the following basis:

Certification to State Auditor and Treasurer.

Distribution of collections between State and local units.

Determination of amount allotted to counties and municipalities.

The amount distributable to each county and to the municipalities therein from the revenue collected under Sections seven hundred two, seven hundred three, seven hundred four, seven hundred five and seven hundred six shall be determined upon the basis of the amounts collected in each county; the amount distributable to each county and to the municipalities therein from the revenue collected under Sections seven hundred one and seven hundred seven shall be determined upon the basis of population in each county as shown by the latest Federal decennial census. The amounts so allocated to each county shall in turn be divided between the county and all municipalities therein in proportion to the total amount of ad valorem taxes levied by each during the fiscal year preceding such distribution. Upon certification by the State Board of Assessment of the allocations herein provided for, it shall be the duty of the State Auditor to issue a warrant on the State Treasurer to the treasurer or other officer authorized to receive public funds of each county and municipality in the amount so allocated to each such county and municipality. It shall be the duty of the Chairman of the Board of County Commissioners

Division between county and municipality.

Reports to State Board by Chairman of County Boards and Mayors of municipalities.

Penalty for failure to make reports.

Use of allotments by local units.

of each such county and the mayor of each such municipality therein to report to the State Board of Assessment such information as it may request for its guidance in making said allotments to said units; and upon failure of any such county or municipality to make such report within the time prescribed by said State Board of Assessment, said board may disregard such defaulting unit in making said allotments. The amounts so allocated to each county and municipality shall be distributed and used by said county or municipality in proportion to other property tax levies made for the various funds and activities of the taxing unit receiving said allotment.

SEC. 716. *Provision for administration.*

Appropriation for administration.

For the administration of this article or schedule an appropriation is hereby made for the use of the Department of Revenue in addition to the appropriation in the Appropriation Bill of a sum equal to four per cent (4%) of the total revenues collected under this article to be expended under allotments made by the Director of the Budget of such part of the whole appropriation as may be found necessary for the administration of this article.

Estimates by Director of Budget.

The Director of the Budget may make estimates of the yield of revenue under this article and make advance appropriations based upon such estimate and to provide for the necessary expense of providing materials, supplies and other needful expenses to be incurred prior to the actual collection of taxes made under and by virtue of this article or schedule. The Director of the Budget may make such advance allotments from such estimates of revenue yield as he may find proper for the convenient and efficient administration of this article.

Advance allotments.

Pro-rata deductions from allotments to local units.

Out of the amounts which may become due and payable to the counties and municipalities there shall be deducted pro rata the cost of collection, enforcement and administration as determined by the Director of the Budget.

SEC. 717. *Unconstitutionality or invalidity; power of attorney.*

Partial invalidity clause.

If any clause, sentence, paragraph, or part of this article or schedule shall for any reason be adjuged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this article or schedule, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. No caption of any section or set of sections shall in any way affect the interpretation of this Act or any part thereof. All

Acts and parts of Acts inconsistent with the provisions of this article or schedule are specifically hereby repealed. Conflicting laws repealed.

SEC. 718. *Reversion to local units in case of invalidity.*

If any clause, sentence, paragraph, or part of this article or schedule shall for any reason be adjudged by any court of competent jurisdiction to be invalid, and if by virtue of said judgment any one or all of the several taxes classified and levied in this article or schedule is/are held invalid, then the particular class or classes of intangible personal property affected by said judgment shall become subject to listing, assessment and taxation by the county, municipality, and other taxing jurisdictions in which said intangible personal property has situs in the same manner and at the same rates as applicable to real estate and other tangible properties: *Provided,* that in such case said listing, assessment and taxation of such intangible personal property by said local taxing units shall become valid and effective as of the tax listing date next preceding the ratification of this Act and shall continue thereafter with full force and effect as if such properties were made taxable by the local taxing units by direct statutory enactment. Reversion to local units in case of invalidity.

SEC. 719. *Power of attorney.*

The Commissioner of Revenue shall have authority to require a proper power of attorney of each and every agent for any taxpayer under this article or schedule. Power of attorney.

ARTICLE IX

SCHEDULE I

Schedule I.

COMPENSATION USE TAX

Compensation Use Tax.

SEC. 800. *Short title.*

This article is known and may be cited as the "Compensation Use Tax Article of one thousand nine hundred and thirty-nine." Title.

SEC. 801. *Definitions.*

The following words, terms and phrases when used in this article have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning. Definitions.

(a) "Storage" means and includes any keeping or retention in this State for any purpose except sale in the regular course of business of tangible personal property purchased from a retailer. "Storage."

(b) "Use" means and includes the exercise of any right or power over tangible personal property incident to the ownership "Use."

of that property, except that it shall not include the sale of that property in the regular course of business.

"Sale." (c) "Sale" means any transfer, barter, or exchange of the title or ownership of tangible personal property, or the right to consume the same, for a consideration paid or to be paid, in installments or otherwise, and includes any transaction whereby title or ownership of such tangible personal property is ultimately to pass, whether such transactions are called leases, bailments, loans, conditional sales, or otherwise, and nothwithstanding that the title or possession of said property, or both, is retained for security. For the purpose of this article the place of delivery of tangible personal property to the purchaser or consumer shall be deemed to be the place of sale, whether such delivery be by the retailer or by a common carrier or otherwise.

"Purchase." (d) "Purchase" means the sale of tangible personal property by a retailer to a person for the purpose of storage, use or consumption in this State.

"Sale price." (e) "Sales price" means the total amount for which tangible personal property is sold, including any services that are a part of the sale, valued in money, whether paid in money or otherwise, and includes any amount for which credit is given to the purchaser by the seller, without any deduction therefrom on account of the cost of the property sold, the cost of materials used, labor or service cost, interest charged, losses, or any other expenses whatsoever; *Provided, however*, that the amount charged for labor or services rendered in installing, applying, remodeling or repairing property sold shall not be included as a part of the sales price.

"Person." (f) "Person" means and includes any individual, firm, copartnership, joint adventure, association, corporation, estate, trust, business trust, receiver, syndicate, or any other group or combination acting as a unit, and the plural as well as the singular number.

"Retailer." (g) "Retailer" means and includes every person engaged in the business of making sales of tangible personal property, or peddling the same, or soliciting or taking orders for sales, whether for immediate or future delivery, for storage, use or consumption in this State; *Provided, however*, that when in the opinion of the Commissioner it is necessary for the efficient administration of this article to regard any salesmen, solicitors, representatives, consignees, peddlers or canvassers as agents of the dealers, distributors, consignors, supervisors, principals or employers under whom they operate or from whom they obtain the tangible personal property sold by them, irrespective of whether they are making sales on their own behalf or on behalf of such dealers, distributors, consignors, supervisors, principals, or employers, the Commissioner may so regard them and may regard the dealers,

distributors, consignors, supervisors, principals, or employers as retailers for purposes of this article.

(h) "Commissioner" means Commissioner of Revenue of the State of North Carolina. "Commissioner."

(i) "Tangible personal property" means personal property which may be seen, weighed, measured, felt, touched, or is in any other manner perceptible to the senses, but shall not include electricity, gas or water delivered by or through main lines or pipes either for commercial or domestic use or consumption. "Tangible personal property."

(j) "Business" includes any activity engaged in by any person or caused to be angaged in by him with the object of gain, benefit or advantage, either direct or indirect. "Business."

(k) "In this State" or "in the State" means within the exterior limits of the State of North Carolina, and includes all territory within such limits owned by or ceded to the United States of America. "In this State" or in the "State."

IMPOSITION OF TAX Imposition of tax.

SEC. 802. *Taxes levied.*

An excise tax is hereby levied and imposed on the storage use or consumption in this State of tangible personal property purchased from a retailer within or without this State on or after July first, one thousand nine hundred and thirty-nine, for storage, use or consumption in this State at the rate of three per cent of the sales price of such property. 3% use tax.

Where a retail sales or use tax has already been paid with respect to said property either in this or another State by the purchaser thereof then the amount of said tax shall be credited upon the tax imposed by this article. Credit of retail sales or use taxes already paid.

Every person storing, using or otherwise consuming in this State tangible personal property purchased or received from a retailer either within or without this State shall be liable for the tax imposed by this article, and the liability shall not be extinguished until the tax has been paid to this State; *Provided, however,* that a receipt from a registered retailer maintaining a place of business in this State, given to the purchaser in accordance with the provisions of this article shall be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer; *Provided further,* that a receipt from a registered retailer who does not maintain a place of business in this State but who has been authorized by the Commissioner under such rules and regulations as he may prescribe, to collect the tax hereby imposed, shall also be sufficient to relieve the purchaser from further liability for the tax to which such receipt may refer. Liability for tax.

Maximum tax.

The maximum tax imposed upon any single article of tangible personal property shall be limited as provided in Section four hundred and five of Article V, Schedule E, of this Act.

SEC. 803. *Exemptions.*

Exemptions.

The storage, use or consumption in this State of the following tangible personal property is hereby specifically exempted from the tax imposed by this article:

Tangible personal property exempted from retail sales tax.

(a) Tangible personal property expressly specified and exempted from the retail sales tax imposed by Article V, Schedule E, of this Act, when purchased or delivered in this State.

Property classified as wholesale sale.

(b) Tangible personal property, the sale of which is classified as a wholesale sale under the provisions of Article V, Schedule E, of this Act.

Property exempt from taxation under U. S. and N. C. Constitutions.

(c) Tangible personal property, the storage, use or consumption of which is exempt from taxation under the Constitution of North Carolina and the Constitution of the United States.

Motor fuels upon which gasoline tax has been paid.

(d) Motor fuels defined and taxed in Article three A of Chapter fifty-five, Volume three, Consolidated Statutes of North Carolina, as now or hereafter amended or supplemented, and upon which the said Gasoline Tax has been paid, when purchased or delivered in this State.

Property brought in State by non-resident for temporary personal use.

(e) Tangible personal property purchased or acquired prior to coming into this State and brought into this State by a person a non-resident thereof for his, her, its or their own use or enjoyment while temporarily in this State.

SEC. 804. *Registration.*

Registration.

Every retailer, except those registered under Article V, Schedule E, of this Act, who shall thereby be deemed to be registered under this article, selling or delivering tangible personal property for storage, use or consumption in this State shall within thirty days after the effective date of this article register with the Commissioner and give the name and address of all agents operating in this State and the counties in this State in which they operate, the location of any and all distribution or sales houses or offices or other places of business in this State, the number, location and place of use of all motor vehicles, motorcycles, or other vehicles or conveyances used or operated in this State by said retailer or in the business of said retailer, or for or under the authority of or under contract with or license from said retailer, and such other information as the Commissioner may require. A fee of one dollar shall be charged for such registration.

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Registration fee.

SEC. 805. *May collect tax.*

Registered retail merchants may add tax to purchase price of articles.

Every registered retail merchant, selling or delivering tangible personal property for storage, use, or consumption in this State

may, at the time of selling or delivering said tangible personal property or collecting the sales price thereof, add to the sales price of such tangible personal property the amount of the tax on the sale thereof, and when so added shall constitute a part of such price, shall be a debt from the purchaser to the merchant until paid, and shall be recoverable at law in the same manner as other debts. It is the purpose and intent of this article that the tax herein levied and imposed shall be added to the sales price of tangible personal property when sold at retail and thereby be passed on to the consumer instead of being absorbed by the merchant.

Intent to pass tax on to consumer.

Any retail merchant, who shall by any character of public advertisement offer to absorb the tax levied in this article upon the retail sale of merchandise, or in any manner, directly or indirectly, advertise that the tax herein imposed is not considered as an element in the price to the consumer, shall be guilty of a misdemeanor. Any violations of the provisions of this section reported to the Commissioner of Revenue shall be reported by him to the Attorney General of the State to the end that such violations may be brought to the attention of the solicitor of the court of the county or district whose duty it is to prosecute misdemeanors in the jurisdiction. It shall be the duty of such solicitor to investigate such alleged violations and, if he finds that this section has been violated, prosecute such violators in accordance with the law.

Offer to publicly absorb tax made misdemeanor.

Violations reported to Attorney General.

Notification of solicitors.

Prosecution of violations.

SEC. 806. *Out of State retailer may register.*

The Commissioner of Revenue may, in his discretion and upon application, authorize any registered retailer not maintaining a place of business in this State to pay the tax imposed by this article when he is satisfied that said retailer will remit the tax imposed in this article and intends in good faith to conform and abide by its provisions. Such retailer shall, without the payment of any fee in addition to the registration fee required under Section eight hundred and four of this article, be issued a license or certificate to pay said tax in such manner and subject to such rules and regulations as the Commissioner may require. When so authorized, it shall be the duty of such retailer to pay said tax in the same manner and subject to the same requirements as a retailer maintaining a place of business in this State. The Commissioner may cancel said license or permit at any time if he finds that such retailer is not properly complying with this article, and such rules and regulations as he may require, or that such tax can be more effectively collected directly from the purchaser. As a condition to the issuance or continuance of said license or permit, the Commissioner may, in his discretion, require such retailer to post a bond or other adequate security sufficient to guarantee and secure the payment of said tax, when the same appears reasonably necessary therefor.

Out of State retailer may register.

Issuance of license or certificate.

Method of payment of tax.

Commissioner may cancel license for cause.

Commissioner may require bond.

SEC. 807. *Taxes payable; when returns are to be filed by retailer.*

Taxes payable in monthly installments.

The tax imposed by this article shall be due and payable to the Commissioner monthly on or before the fifteenth day of the month next succeeding the month in which the tax accrues. Every registered retailer maintaining a place of business in this State, and every registered retailer not maintaining a place of business in this State, but authorized to pay said tax, shall, on or before the

Monthly returns by retailers.

fifteenth day of the month following the month in which the tax accrues, file with the Commissioner a return for the preceding month, in such form as may be prescribed by the Commissioner,

Contents.

showing the total sales price of the tangible personal property sold and/or delivered by the retailer during such preceding month, the storage, use or consumption of which is subject to the tax imposed by this article, and such other information as the Commissioner may deem necessary for the proper administration of this

Tax remitted with returns.

article. The return shall be accompanied by a remittance of the amount of tax herein required to be paid by the retailer during the month covered by the return. Returns shall be signed by the retailer or his duly authorized agent but need not be verified by oath.

SEC. 808. *Taxes payable; when returns are to be filed by purchaser.*

Returns by purchasers.

The Commissioner of Revenue shall have authority to require every person storing, using or consuming tangible personal property in this State purchased from a retailer who does or does not maintain a place of business in this State, to file with the Commissioner a return for the preceding month in such form as may be

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prescribed by him showing the total sales price of the tangible personal property purchased or received by such person during such preceding month, the storage, use or consumption of which is subject to the tax imposed by this article, and such other information as the Commissioner may deem necessary for the proper

Remittance of tax.

administration of this article. The return shall be accompanied by a remittance of the amount of tax herein imposed during the month covered by the return. Returns shall be signed by the person liable for the tax or his duly authorized agent but need not be verified by oath.

Exemption.

No return or report shall be required under this section, however, of any person storing, using, or consuming tangible personal property purchased from a registered retailer to whom said person has paid the tax imposed by this article, provided said registered retailer maintains a place of business in this State or has been authorized to pay said tax as imposed in this article.

SEC. 809. *Sales presumed to be for storage, use or consumption.*

Sales presumed to be for storage, use or consumption.

For the purpose of the proper administration of this article and to prevent evasion of the tax and the duty to pay the same herein

imposed, it shall be prima facie presumed that tangible personal property sold by any person for delivery in this State is sold for storage, use or other consumption in this State.

SEC. 810. Provisions of Article V, Schedule E, and Article X, Schedule J of Revenue Act applicable.

Provisions of Art. V, Schedule E, and Art. X, Schedule J, of Revenue Act, applicable.

All provisions not inconsistent with this article in Article V, Schedule E, and Article X, Schedule J, of the Revenue Act, relating to administration, auditing, and making returns, promulgation of rules and regulations by the Commissioner, imposition and collection of tax and the lien thereof, assessments, refunds, and penalties are hereby made a part of this article and shall be applicable hereto.

SEC. 811. *Failure to register and file returns misdemeanor.*

Failure to register and file returns made misdemeanor.

Any retailer failing or refusing to register and give the information required in this article, and any retailer or other person failing or refusing to make any return required to be made under this article, or failing or refusing to make a supplemental return or to furnish other data or information required by the Commissioner, or rendering a false or fraudulent return, shall be guilty of a misdemeanor and subject to a fine of not exceeding five hundred dollars ($500.00) for each such offense.

Penalty for false or fraudulent returns.

Any person required by this article to make, render or sign any return or report or to furnish other data or information, who makes any false or fraudulent return or report, or who furnishes any false data or information, with intent to defeat or evade the assessment or determination of any tax due under this article, shall be guilty of a misdemeanor, and shall for each such offense be fined not less than three hundred dollars ($300.00) and not more than five thousand dollars ($5,000.00) or be imprisoned not exceeding one year in the county jail or be subject to both said fine and imprisonment in the discretion of the court.

Any wilful violation of the provisions of this article, except as otherwise herein provided, shall be a misdemeanor and punishable as such.

SEC. 812. *Unconstitutionality or invalidity.*

Partial invalidity section.

If any section, subsection, clause, sentence or phrase of this article which is reasonably separable from the remaining portions of this article, or the application thereof in any particular case or to any particular person, is for any reason held to be unconstitutional, such decision shall not affect the remaining portions of this article or their application in other cases or to other persons not similarly affected. The Legislature hereby declares that it would have passed the remaining portions of this article irrespec-

tive of the fact that any such section, subsection, clause, sentence or phrase of this article, or the said application thereof, be declared unconstitutional.

ARTICLE X

Schedule J.

SCHEDULE J

General administration; penalties.

GENERAL ADMINISTRATION—PENALTIES AND REMEDIES

SEC. 900. *Failure of a firm, corporation, public utility and/or public service corporation to file report.*

Penalty for failure to file report.

If any person, firm, or corporation required to file a report under any of the provisions of Schedule B and C of this Act fails, refuses, or neglects to make such report as required herein within the time limited in said schedule for making such report he or it

Separate offenses.

shall pay a penalty of ten dollars ($10.00) for each day's omission.

SEC. 901. *Charter canceled for failure to report.*

Suspension of corporate charter for failure to make return or pay tax.

If a corporation required by the provisions of this Act to file any report or return or to pay any tax or fee, either as a public utility (not as an agency of interstate commerce) or as a corporation incorporated under the laws of this State, or as a foreign corporation domesticated in or doing business in this State, or owning and using a part or all of its capital or plant in this State, fails or neglects to make any such report or return or to pay any such tax or fee for ninety days after the time prescribed in this Act for making such report or return, or for paying such tax or

Commissioner to certify facts to Secretary of State.

fee, the Commissioner of Revenue shall certify such fact to the

Duties of Secretary of State.

Secretary of State. The Secretary of State shall thereupon suspend the articles of incorporation of any such corporation which is incorporated under the laws of this State by appropriate entry upon the records of his office, or suspend the certificate of authority of any such foreign corporation to do business in this State by proper entry. Thereupon all the powers, privileges, and franchises conferred upon such corporation by such articles of incorporation or by such certificate of authority shall cease and determine. The Secretary of State shall immediately notify by registered mail every such domestic or foreign corporation of the action taken by him, and also shall immediately certify such suspension to the Clerk of Superior Court of the county in which the principal office or place of business of such corporation is located in this State with instructions to said clerk, and it shall be the clerk's duty, to make appropriate entry upon the records of his office indicating suspension of the corporate powers of the corporation in question.

Notice to corporations.

Certification to Superior Court.

Entry upon records by Clerk Superior Court.

SEC. 902. *Penalty for exercising corporate functions after cancellation or suspension of charter.*

Any person, persons or corporation who shall exercise or by any act attempt to exercise any powers, privileges, or franchises under articles of incorporation or certificate of authority after the same are suspended, as provided in any section of this Act, shall pay a penalty of not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00), to be recovered in an action to be brought by the Commissioner of Revenue in the Superior Court of Wake County. Any corporate act performed or attempted to be performed during the period of such suspension shall be invalid and of no effect.

Penalty for conduct of business after suspension of charter.

Acts during period of suspension void.

SEC. 903. *Corporate rights restored.*

Any corporation whose articles of incorporation or certificate of authority to do business in this State have been suspended by the Secretary of State, as provided in Section eight hundred one of this Act, or similar provisions of prior Revenue Acts, upon the filing, within ten years after such suspension or cancellation under previous Acts, with the Secretary of State, of a certificate from the Commissioner of Revenue that it has complied with all the requirements of this Act and paid all State taxes, fees, or penalties due from it (which total amount due may be computed, for years prior and subsequent to said suspension or cancellation, in the same manner as if said suspension or cancellation had not taken place), and upon payment to the Secretary of State of an additional penalty of ten dollars ($10.00) to cover cost of reinstatement, shall be entitled to exercise again its rights, privileges, and franchises in this State; and the Secretary of State shall cancel the entry made by him under the provisions of Section eight hundred one of this Act or similar provisions of prior Revenue Acts, and shall issue his certificate entitling such corporation to exercise again its rights, privileges, and franchises, and certify such reinstatement to the Clerk of Superior Court in the county in which the principal office or place of business of such corporation is located with instructions to said Clerk, and it shall be his duty to cancel from his records the entry showing suspension of corporate privileges.

Restoration of corporate rights upon compliance.

Issuance of certificate of compliance by Commissioner of Revenue.

Cost of reinstatement.

Certificate of reinstatement.

Reinstatement certified to Clerk Superior Court.

Cancellation of entry of suspension.

SEC. 904. *Officers, agents, and employees; misdemeanor failing to comply with tax law.*

If any officer, agent, and/or employee of any person, firm, or corporation subject to the provisions of this Act shall wilfully fail, refuse, or neglect to make out, file, and/or deliver any reports or blanks, as required by such law, or to answer any question therein propounded, or to knowingly and wilfully give a false answer to any such question wherein the fact inquired of is within his knowledge, or upon proper demand to exhibit to such Commissioner of Revenue or any of his duly authorized representatives any book, paper, account, record, memorandum of such person, firm, or corporation in his possession and/or under his control, he shall be

Failure of officers, agents and employees to make reports, etc. made misdemeanor.

False statements.

Punishment.

guilty of a misdemeanor and fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) for each offense.

SEC. 905. *Aiding and/or abetting officers, agents, or employees in violation of this Act a misdemeanor.*

Aiding and abetting made misdemeanor.

If any person, firm, or corporation shall aid, abet, direct, cause or procure any of his or its officers, agents, or employees to violate any of the provisions of this Act, he or it shall be guilty of a misdemeanor, and fined not less than one hundred dollars ($100.00) nor more than one thousand dollars ($1,000.00) for each offense.

Punishment.

SEC. 906. *Each day's failure a separate offense.*

Each day's failure made separate offense.

Every day during which any person, firm, or corporation subject to the provisions of this Act, or any officer, agent, or employee thereof, shall wilfully fail, refuse, or neglect to observe and comply with any order, direction, or mandate of the Commissioner of Revenue, or to perform any duty enjoined by this Act, shall constitute a separate and distinct offense.

SEC. 907. *Penalty for bad checks.*

Penalty for giving bad checks.

When any uncertified check is tendered in payment of any obligation to the Department of Revenue, and such check shall have been returned to the office of the Commissioner of Revenue unpaid on account of insufficient funds of the drawer of said check in the bank upon which same is drawn, then and in that event an additional tax shall be imposed equal to ten per cent (10%) of the tax due; and in no case shall the increase of said tax because of such failure be less than one dollar ($1.00) nor exceeding two hundred dollars ($200.00), and the said additional tax shall not be waived or diminished by the Commissioner of Revenue. This section shall apply to all taxes levied or assessed by the State.

SEC. 908. *Discretion of commissioner over penalties.*

Power to reduce or waive penalties.

The Commissioner of Revenue shall have power, upon making a record of his reasons therefor, to reduce or waive any penalties provided for in this Act, except the penalty provided in Section eight hundred seven relating to unpaid checks.

SEC. 909. *Tax a debt.*

Tax declared a debt.

Every tax imposed by this Act, and all increases, interest, and penalties thereon, shall become, from the time it is due and payable, a debt from the person, firm, or corporation liable to pay the same to the State of North Carolina.

SEC. 910. *Action for recovery of taxes.*

Action in court to recover taxes.

Action may be brought at any time and in any court of competent jurisdiction in this State or other state, in the name of the State and at the instance of the Commissioner of Revenue, to recover the amount of any taxes, penalties, and interest due under this Act. This remedy is in addition to all other remedies for the collection of said taxes and shall not in any respect abridge the same. Any judgment shall be declared to have such preference and priority against the property of the defendant as is provided by law for taxes levied by this Act, and free from any claims for homestead or personal property exemption of the defendant therein.

In addition to other remedies.

Judgment declared prior lien.

Homestead and personal property exemptions not allowed.

SEC. 911. *Tax upon settlement of fiduciary's account.*

No final settlement by fiduciary until tax paid.

No final account of a fiduciary shall be allowed by the probate court unless such account shows, and the judge of said court finds, that all taxes imposed by the provisions of this Act upon said fiduciary, which have become payable, have been paid, and that all taxes which may become due are secured by bond, deposit, or otherwise. The certificate of the Commissioner of Revenue and the receipt for the amount of tax herein certified shall be conclusive as to the payment of the tax to the extent of said certificate.

Agreement as to amount of tax to facilitate settlement.

For the purpose of facilitating the settlement and distribution of estates held by fiduciaries, the Commissioner of Revenue, with the approval of the Attorney General, may, on behalf of the State, agree upon the amount of taxes at any time due or to become due from such fiduciaries under the provisions of this Act, and the payment in accordance with such agreement shall be full satisfaction of the taxes to which the agreement relates.

SEC. 912. *Taxes payable in national currency; for what period, and when a lien.*

Taxes payable in national currency.

The taxes herein designated and levied shall be payable in the existing national currency. State, county, and municipal taxes levied for any and all purposes pursuant to this Act shall be for the fiscal year of the State in which they become due, except as otherwise provided, and the lien of such taxes shall attach annually to all real estate of the taxpayer within the State on the date that such taxes are due and payable, and said lien shall continue until such taxes, with any interest, penalty, and costs which shall accrue thereon, shall have been paid; in the settlement of the estate of any decedent where, by any order of court or other proceeding, the real estate of the decedent has been sold to make assets to pay debts, such sale shall not have the effect of extinguishing the lien upon the land so sold for State taxes, nor shall the same be postponed in any manner to the payment of any other claim or debt against the estate, save funeral expenses and cost of administration.

Declared lien on real estate.

Lien to continue until payment.

Real property of decedents sold to make assets with which to pay debts.

Properties in receivership.

Whenever the property of any taxpayer liable to any tax imposed by this Act or under its authority shall be taken into receivership, the lien of the taxes upon the real estate shall not thereby be in any manner disturbed, and the personal property of the taxpayer liable to said tax upon which there is no prior specific lien shall be subject to a lien for the taxes imposed by this Act, or under its authority, from the time the receivership went into effect, subject to prior payment of costs of the receivership only.

Lien of taxes imposed by other statutes unaffected.

The provisions of this section shall not have the effect of releasing any lien for State taxes imposed by other law, nor shall they have the effect of postponing the payment of the said State taxes or depriving the said State taxes of any priority in order of payment provided in any other statute under which payment of the said taxes may be required.

SEC. 913. *Warrant for the collection of taxes.*

Warrant of collection issued to sheriff in delinquent cases.

If any tax imposed by this Act, or any other tax levied by the State and payable to the Commissioner of Revenue, or any portion of such tax be not paid within thirty days after the same becomes due and payable, and after the same has been assessed, the Commissioner of Revenue shall issue an order under his hand and official seal, directed to the Sheriff of any county of the State, commanding him to levy upon and sell the real and personal property of the taxpayer found within his county for the payment of the amount thereof, with the added penalties, additional taxes, interest, and cost of executing the same, and to return to the Commissioner of Revenue the money collected by virtue thereof within a time to be therein specified, not less than sixty days from the date of the order. The said Sheriff shall, thereupon, proceed upon the same in all respects with like effect and in the same manner prescribed by law in respect to executions issued against property upon judgments of a court of record, and shall be entitled to the same fees for his services in executing the order, to be collected in the same manner.

Collection by sheriffs.

Return day.

Fees of sheriff.

Issuance of certificate of tax to Clerk Superior Court.

Contents.

In addition to the remedy herein provided, the Commissioner of Revenue is authorized and empowered to make a certificate setting forth the essential particulars relating to the said tax, including the amount thereof, the date when the same was due and payable, the person, firm, or corporation chargeable therewith, and the nature of the tax, and under his hand and seal transmit the same to the Clerk of the Superior Court of any county in which the delinquent taxpayer resides or has property; whereupon, it shall be the duty of the Clerk of the Superior Court of the county to docket the said certificate and index the same on the cross-index of judgments, and execution may issue thereon with the same force and effect as an execution upon any other judgment of the Superior Court (said tax shall become a lien on realty

Docketing by Clerk Superior Court.

Indexed as judgments.

Granted equal force and effect of judgment liens.

only from the date of the docketing of such certificate in the office of the Clerk of the Superior Court and on personalty only from the date of the levy on such personalty and upon the execution thereon no homestead or personal property exemption shall be allowed). Not subject to exemptions.

The remedies herein given are cumulative and in addition to all other remedies provided by law for the collection of said taxes. Remedies declared accumulative and additional.

Sec. 914. *Taxes recoverable by action.*

Upon the failure of any corporation to pay the taxes, fees, and penalties prescribed by this Act, the Commissioner of Revenue may certify same to the Sheriff of the county in which such company may own property, for collection as provided in this Act; and if collection is not made, such taxes or fees and penalties thereon may be recovered in an action in the name of the State, which may be brought in the Superior Court of Wake County, or in any county in which such corporation is doing business, or any county in which such corporation owns property. The Attorney General, on request of the Commissioner of Revenue, shall institute such action in the Superior Court of Wake County, or of any such county as the Commissioner of Revenue may direct. In any such action it shall be sufficient to allege that the tax, fee, or penalty sought to be recovered is delinquent, and that the same has been unpaid for the period of thirty days after due date. Taxes recoverable by action. Venue. Duties of Attorney General. Allegations.

Sec. 915. *Additional remedies.* Additional remedies.

In addition to all other remedies for the collection of any taxes or fees due under the provisions of this Act, the Attorney General shall, upon the request of the Commissioner of Revenue, whenever any taxes, fees, or penalties due under this Act from any public utility (not an agency of interstate commerce) or corporation shall have remained unpaid for a period of ninety days, or whenever any corporation or public utility (not an agency of interstate commerce) has failed or neglected for ninety days to make or file any report or return required by this Act, or to pay any penalty for failure to make or file such report or return, apply to the Superior Court of Wake County, or of any county in the State in which such public utility (not an agency of interstate commerce) or corporation is located or has an office or place of business, for an injunction to restrain such public utility (not an agency of interstate commerce) or corporation from the transaction of any business within the State until the payment of such taxes or fees and penalties thereon, or the making and filing of such report or return and payment of penalties for failure to make or file such report or return, and the cost of such application, which shall be fixed by the court. Such petition shall be in the name of the State; and if it is made to appear to the court, upon hearing, that such public utility (not an agency of interstate com- Injunction to restrain carrying on business until reports filed or taxes paid. Petition for injunction.

merce) or corporation has failed or neglected, for ninety days, to pay such taxes, fees, or penalties thereon, or to make and file such reports, or to pay such penalties, for failure to make or file such reports or returns, such court shall grant and issue such injunction.

SEC. 916. *Failure of Sheriff to execute order.*

Liability of sheriffs for failure to perform duties.

If any Sheriff of this State shall wilfully fail, refuse, or neglect to execute any order directed to him by the Commissioner of Revenue and within the time provided in this Act, the official bond of such Sheriff shall be liable for the tax, penalty, interest, and cost due by the taxpayer.

SEC. 917. *Actions, when tried.*

Priority of actions over other civil actions.

All actions or processes brought in any of the Superior Courts of this State, under provisions of this Act, shall have precedence over any other civil causes pending in such courts, and the courts shall always be deemed open for trial of any such action or proceeding brought therein.

No income or inheritance tax to be levied by local units.

SEC. 918. *Municipalities not to levy income and inheritance tax.*

No city, town, township, or county shall levy any tax on income or inheritance.

SEC. 919. *State taxes; purposes.*

Taxes herein levied are for State expense.

The taxes levied in this Act are for the expenses of the State government, the appropriations to its educational, charitable, and penal institutions, pensions for Confederate soldiers and widows, the interest on the debt of the State, for public schools, and other specific appropriations made by law, and shall be collected and paid into the general fund of the State Treasurer.

Unpaid school taxes to be collected.

The taxes levied under authority of Section four hundred ninety-two of Chapter four hundred twenty-seven of the Public Laws of one thousand nine hundred thirty-one, and remaining unpaid, shall be collected in the same manner as other county taxes and accounted for in the same manner as other taxes under the Daily Deposit Act. The county treasurer or other officer receiving such taxes in each county shall remit to the Treasurer of the State on the first and fifteenth days of each month all taxes collected up to the time of such remittance under the levy therein provided for, and such remittance to the State Treasurer shall also include the proportion of all poll taxes collected required by the Constitution of the State to be used for educational purposes.

Remittance to State Treasurer.

Such taxes subject to discounts and penalties.

The tax levy therein provided for shall be subject to the same discounts and penalties as provided by law for other county taxes, and there shall be allowed the same percentage for collecting such taxes as for other county taxes. The obligation to the State un-

der the levy therein provided for shall run against all taxes that become delinquent; and with respect to any property that may be sold for taxes, any public officer receiving such delinquent taxes, when and if such property may be redeemed or such tax obligations in any manner satisfied, shall remit such proportionate part of such tax levy to the State Treasurer within fifteen days after receipt of same. At the end of each fiscal year the county accountant shall furnish the State Treasurer a statement of the total amount of taxes levied in accordance with the provisions of this section, that are uncollected at the end of the fiscal year.

Remittance of taxes after tax sales.

Statements rendered.

Whenever in any law or act of incorporation, granted either under the general law or by special Act, there is any limitation or exemption of taxation, the same is hereby repealed, and all the property and effects of all such corporations, other than the bonds of this State and of the United States Government, shall be liable to taxation, except property belonging to the United States and to municipal corporations, and property of churches, religious societies, charitable, educational, literary, or benevolent institutions or orders, and also cemeteries: *Provided,* that no property whatever, held or used for investment, speculation, or rent, shall be exempt, other than bonds of this State and of the United States Government, unless said rent or the interest on or income from such investment shall be used exclusively for religious, charitable, educational, or benevolent purposes, or the interest upon the bonded indebtedness of said religious, charitable, or benevolent institutions.

Conflicting exemptions repealed.

Lawful exemptions enumerated.

Property held for investment or speculation not exempt.

Exception.

SEC. 920. *Law applicable to foreign corporations.*

All foreign corporations, and the officers and agents thereof, doing business in this State, shall be subject to all the liabilities and restrictions that are or may be imposed upon corporations of like character, organized under the laws of this State, and shall have no other or greater powers.

Act applicable to foreign corporations.

SEC. 921. *Information must be furnished.*

Each company, firm, corporation, person, association, copartnership, or public utility shall furnish the Commissioner of Revenue in the form of returns prescribed by him, all information required by law and all other facts and information in addition to the facts and information in this Act specifically required to be given, which the Commissioner of Revenue may require to enable him to carry into effect the provisions of the laws which the said Commissioner is required to administer, and shall make specific answers to all questions submitted by the Commissioner of Revenue.

Commissioner may require additional information.

SEC. 922. *Returns required.*

Blanks furnished by Commissioner to be properly filled out.

Any company, firm, corporation, person, association, co-partnership, or public utility receiving from the Commissioner of Revenue any blanks, requiring information, shall cause them to be properly filled out so as to answer fully and correctly each question therein propounded, and in case it is unable to answer any question, it shall, in writing, give a good and sufficient reason for such failure.

Verification of answers to questions.

The answers to such questions shall be verified under oath by such persons, or by the president, secretary, superintendent, general manager, principal accounting officer, partner, or agent, and returned to the Commissioner of Revenue at his office within the period fixed by the Commissioner of Revenue.

SEC. 923. *Personal liability of officers, trustees, or receivers.*

Personal liability of corporate officers allowing distribution of funds before payment of tax.

Any officer, trustee, or receiver of any corporation required to file report with the Commissioner of Revenue, having in his custody funds of the corporation, who allows said funds to be paid out or distributed to the stockholders of said corporation without having satisfied the State Board of Assessment or Commissioner of Revenue for any State taxes which are due or have accrued, shall be personally responsible for the payment of said tax, and in addition thereto shall be subject to a penalty of not more than the amount of the tax, nor less than twenty-five per cent (25%) of such tax found to be due or accrued.

SEC. 924. *Blanks furnished by Commissioner of Revenue.*

Suitable blanks furnished by Commissioner.

The Commissioner of Revenue shall cause to be prepared suitable blanks for carrying out the purposes of the laws which he is required to administer, and, on application, furnish such blanks to each company, firm, corporation, person, association, co-partnership, or public utility subject thereto.

SEC. 925. *Commissioner of Revenue to keep records.*

Tax records to be kept by Commissioner.

Contents.

Monthly reports to Budget Bureau.

The Commissioner of Revenue shall keep books of account and records of collections of taxes as may be prescribed by the Director of the Budget; shall keep an assessment roll for the taxes levied, assessed, and collected under this Act, showing in same the name of each taxpayer, the amount of tax assessed against each, when assessed, the increase or decrease in such assessment; the penalties imposed and collected, and the total tax paid; and shall make monthly reports to the Director of the Budget and to the Auditor and/or State Treasurer of all collections of taxes on such forms as prescribed by the Director of the Budget.

SEC. 926. *Publication of statistics.*

Annual publication of statistics.

The Commissioner of Revenue shall prepare and publish annually statistics reasonably available, with respect to the operation of this Act, including amounts collected, classifications of taxpayers, income and exemptions, and such other facts as are deemed pertinent and valuable.

SEC. 927. *Powers of Commissioner of Revenue.*

Right of Commissioner to examine books and records of taxpayer.

The Commissioner of Revenue, for the purpose of ascertaining the correctness of any return or for the purpose of making an estimate of the tax due by any taxpayer under this Act, shall have the power to examine or cause to be examined, by any agent or representative designated by him for that purpose, any books, papers, records, or memoranda bearing upon the matters required to be included in the return, and may require the attendance of the taxpayer or of any other person having knowledge in the premises, and may take testimony and require proof material for his information, with power to administer oaths to such person or persons.

Judicial powers.

SEC. 928. *Secrecy required of officials—penaly for violation.*

Tax matters not to be divulged except on court order.

Except in accordance with proper judicial order, or as otherwise provided by law, it shall be unlawful for the Commissioner of Revenue, any deputy, agent, clerk, other officer, employee, or former officer or employee, to divulge and make known in any manner the amount of income, income tax or other taxes, set forth or disclosed in any report or return required under this Act.

Publication of statistics unaffected.

Nothing in this section shall be construed to prohibit the publication of statistics, so classified as to prevent the identification of particular reports or returns, and the items thereof; the inspection of such reports or returns by the Governor, Attorney General, or their duly authorized representative; or the inspection by a legal representative of the State of the report or return of any taxpayer who shall bring an action to set aside or review the tax based thereon, or against whom an action or proceeding has been instituted to recover any tax or penalty imposed by this Act; nor shall the provisions of this section prohibit the Department of Revenue furnishing information to other governmental agencies, of persons and firms properly licensed under Schedule B of this Act. The Department of Revenue may exchange information with the officers of organized associations of taxpayers under Schedule B of this Act with respect to parties liable for such taxes and as to parties who have paid such license taxes.

Right of inspection of reports by State officials in certain cases.

Exchange of information permitted.

Preservation of reports and returns.

Reports and returns shall be preserved for three years, and thereafter until the Commissioner of Revenue shall order the same to be destroyed.

Violations made misdemeanor.

Any person, officer, agent, clerk, employee, or former officer or employee violating the provisions of this section shall be guilty of a misdemeanor, and fined not less than two hundred dollars ($200.00) nor more than one thousand dollars ($1,000.00) and/or imprisoned, in the discretion of the court; and

Dismissal of State's employees for violations.

if such offending person be an officer or employee of the State, he shall be dismissed from such office or employment, and shall not hold any public office or employment in this State for a period of five years thereafter.

Inspection of records by Federal officials and those of other states.

Notwithstanding the provisions of this section, the Commissioner of Revenue may permit the Commissioner of Internal Revenue of the United States, or the Revenue officer of any other state imposing any of the taxes imposed in this Act, or the duly authorized representative of either, to inspect the report or return of any taxpayer; or may furnish such officer or his authorized agent an abstract of the report or return of any taxpayer; or supply such officer with information concerning any item contained in any report or return, or disclosed by the report of any investigation of such report or return of any taxpayer. Such permission, however, shall be granted or such information furnished to such officer, or his duly authorized representative, only if the statutes of the United States or of such other state grants substantially similar privilege to the Commissioner of Revenue of this State or his duly authorized representative.

SEC. 929. *Deputies and clerks.*

Clerks and deputies of Commissioner.

Removal.

Compensation.

The Commissioner of Revenue may appoint such deputies, clerks and assistants under his direction as may be necessary to administer the laws relating to the assessment and collection of all taxes provided for in this Act; may remove and discharge same at his discretion, and shall fix their compensation within the rules and regulations prescribed by law.

SEC. 930. *Commissioner and deputies to administer oaths.*

Commissioner and deputies may administer oaths.

The Commissioner of Revenue and such deputies as he may designate shall have the power to administer an oath to any person or to take the acknowldgment of any person in respect to any return or report required by this Act or under the rules and regulations of the Commissioner of Revenue, and shall

Access to records.

have access to all the books and records of any person, firm, corporation, county, or municipality in this State.

SEC. 931. *Rules and regulations.*

Rules and regulations of Commissioner.

The Commissioner of Revenue may, from time to time, make, prescribe, and publish such rules and regulations, not inconsistent with this Act, as may be needful to enforce its provisions.

SEC. 932. *Time for filing reports extended.*

Power of Commissioner to extend time for filing reports.

The Commissioner of Revenue, when he deems the same necessary or advisable, may extend to any person, firm, or corporation or public utility a further specified time within which to file any report required by law to be filed with the Commissioner of Revenue, in which event the attaching or taking effect of any penalty for failure to file such report or to pay any tax or fee shall be extended or postponed accordingly. Interest at the rate of six per cent (6%) per annum from the time the report or return was originally required to be filed to the time of payment shall be added to and paid with any tax that might be due on returns so extended.

Interest on extensions.

SEC. 933. *Construction of the act; population.*

Construction of Act by Commissioner.

It shall be the duty of the Commissioner of Revenue to construe all sections of this Act imposing either license, franchise, inheritance, income, or other taxes. Such decisions by the Commissioner of Revenue shall be prima facie correct, and a protection to the officers and taxpayers affected thereby. Where the license tax is graduated in this Act according to the population, the population shall be the number of inhabitants as determined by the last census of the United States Government: *Provided, that* if any city or town in this State has extended its limits since the last census period, and thereafter has taken a census of its population in these increased limits by an official enumeration, either through the aid of the United States Government or otherwise, the population thus ascertained shall be that upon which the license tax is to be graduated.

Determination of tax based on population.

Where municipality has extended corporate limits.

SEC. 934. *When increases operative.*

Increase or decrease in taxes effective as of May 31, 1939.

In all instances in which the taxes are increased or decreased or new taxes imposed under Schedules B and C of this Act, and which shall become due between the ratification of this Act and the first day of June, one thousand nine hundred and thirty-nine, such increase or decrease shall become operative only from and after the thirty-first day of May, one thousand nine hundred and thirty-nine.

SEC. 935. *Authority for imposition of tax.*

Act constitutes authority for imposition of taxes.

This Act, after its ratification, shall constitute authority for the imposition of taxes upon the subject herein revised, and all laws in conflict with it are hereby repealed, but such repeal shall not affect taxes listed or which ought or should have been listed, or which may have been due, or penalties or fines incurred from failure to make the proper reports, or to pay the taxes at the proper time under any of the schedules of existing law, but such taxes and penalties may be collected, and criminal offenses prosecuted under such law existing at the time of the ratification of this Act, notwithstanding this repeal.

SEC. 936. *Taxes to be paid; suits for recovery of taxes.*

Payment of taxes under protest.

No court of this State shall entertain a suit of any kind brought for the purpose of preventing the collection of any tax imposed in this Act. Whenever a person shall have a valid defense to the enforcement of the collection of a tax assessed or charged against him or his property, such person shall pay

Notice of protest.

such tax to the proper officer, and notify such officer in writing that he pays same under protest. Such payment shall be without prejudice to any defense of rights he may have in the premises, and he may, at any time within thirty days after

Demand for refund.

such payment, demand the same in writing from the Commissioner of Revenue of the State, if a State tax, or if a county, city, or town tax, from the treasurer thereof for the benefit or under the authority or by request of which the same was levied; and if the same shall not be refunded within ninety days

Suit to recover.

thereafter, may sue such official in the courts of the State for the amount so demanded. Such suit, if against the State Com-

Venue.

missioner of Revenue, must be brought in the Superior Court of Wake County, or in the county in which the taxpayer resides, if the sum demanded is upwards of two hundred dollars ($200.00), and if for two hundred dollars ($200.00) or less, before any State court of competent jurisdiction in Wake County. If for a county, city or town tax, suit must be brought in a State court of competent jurisdiction in the county where the tax is collectible, and the defendant official has his official residence. If upon the trial it shall be determined that such tax or any part thereof was levied or assessed for an illegal or unauthorized purpose, or was for any reason invalid or excessive, judgment shall be rendered therefor, with interest, and

Judgment.

Refund.

the same shall be collected as in other cases. The amount of State taxes for which judgment shall be rendered in such action shall be refunded by the State.

SEC. 937. *Overpayment of taxes to be refunded with interest.*

Overpayment of taxes to be refunded with interest.

If the Commissioner of Revenue discovers from the examination of any return, or otherwise, that any taxpayer has overpaid the correct amount of tax (including penalties, interests and costs, if any), such overpayment shall be refunded to the taxpayer within sixty days after it is ascertained together with interest thereon at the rate of six per cent (6%) per annum: *Provided,* that interest on any such refund shall be computed from a date ninety (90) days after date tax was originally paid by the taxpayer.

SEC. 938. *Reciprocal comity.*

Comity with other states.

The courts of this State shall recognize and enforce liabilities for taxes lawfully imposed by other states which extend a like comity to this State.

SEC. 939. *Extra-territorial authority to enforce payment.*

Extra-territorial authority to enforce payment of taxes.

The Commissioner of Revenue, with the assistance of the Attorney General, is hereby empowered to bring suits in the courts of other states to collect taxes legally due this State. The officials of other states which extend a like comity to this State are empowered to sue for the collection of such taxes in the courts of this State. A certificate by the Secretary of State, under the Great Seal of the State, that such officers have authority to collect the tax shall be conclusive evidence of such authority.

SEC. 940. *Unconstitutionality or invalidity.*

Partial invalidity section.

If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. No caption of any section or set of sections shall in any way affect the interpretation of this Act or any part thereof.

SEC. 941. *Effective date.*

Effective date.

This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 110 **CHAPTER 159**

AN ACT TO PROVIDE FOR ABSENTEE ELECTORS TO VOTE IN GENERAL ELECTIONS, AND TO REPEAL ALL EXISTING LAWS RELATING TO ABSENTEE VOTING BY ABSENTEE BALLOTS.

The General Assembly of North Carolina do enact:

Absentee voting in general elections.

SECTION 1. Any qualified voter of the State who finds that he will be absent from the county in which he is entitled to vote during the day of the holding of any general election, or who by reason of sickness or other physical disability will be unable to travel from his home, or place of confinement, to the voting place in his precinct, may vote in any such general election, in the manner as hereinafter provided.

Written application for official ballot.

SEC. 2. Such voter, not more than thirty days, nor less than two days prior to the date of such general election shall make application, in person, by some member of his or her immediate family (husband and wife, brother and sister, parent and child only) or by mail, in writing, to the Chairman of the County Board of Elections of his county, for an official ballot to be voted in such general election. *Provided* that said two days minimum shall not apply to voters becoming unexpectedly physically disabled to attend the polls.

Such application shall be made on a blank to be furnished by the Chairman of the County Board of Elections and shall be substantially in the following form:

Form and contents of application.

APPLICATION FOR ABSENTEE VOTER'S BALLOT

I, ..., do hereby certify that I am a duly qualified voter in ..... precinct, ... Township, in the County of ....., North Carolina, and that I am entitled to vote in the general election to be held therein on the ..... day of ..... 19.....:

(a) That I will be absent from the county during the day of the election;

(b) That by reason of sickness, or other physical disability, I will be unable to travel from my home, or place of confinement, to the voting place in my precinct;

(Strike out whichever of (a) or (b) is inappropriate)

and I hereby make application for the official ballot, or ballots, to be voted by me in such general election, and that I will return said ballot, or ballots, to the official issuing the same, before the date of said general election.

Dated .....
P. O. Address .....
(Signed) .....
Witness: .....

There shall be printed as part of the application a certificate to be executed by the Chairman of the County Board of Elections as follows:

CERTIFICATE OF CHAIRMAN OF ELECTION BOARD

Certificate of Chairman of Election Board.

I, ..., Chairman of the County Board of Elections of ..... County, do hereby certify that the above application was received by me from ....., on the ..... day of ....., 19....., by personal delivery to me by the voter or by a member of his or her immediate family, or by mail addressed to me; that this application is number ....., and that I have delivered, or caused to be delivered at my direction and under my supervision, in person to ....., the said voter, or ....., a member of his or her immediate family, or have mailed to him, or her, at the designated post office address, the official ballot with the name of the applicant certified on said ballot or ballots, and that I delivered, or caused to be delivered at my direction and under my supervision, in person, or to said member of his or her immediate family, or mailed, to the voter a container envelope for said ballot, bearing the same number with the name of the voter and his voting precinct entered thereon; and that I also, at the same time, furnished a return envelope, bearing my name and address, in which the ballot could be returned to me.

I further certify that this application was registered by me, in a register furnished for that purpose by the State Board of Elections, on the day that it was received and the ballot issued, and that it bears the same number on the register as this application and the container envelope furnished.

Dated .....
(Signed) .....
Chairman, ... County.
Board of Elections.

On the back of said application there shall be printed Sections twelve and thirteen of this Act.

Sections 12 and 13 of Act printed on back of application.

SEC. 3. Upon receipt of such application (provided it shall be received not more than thirty days, nor less than two days prior to such general election, except as hereinbefore provided), the Chairman of the County Board of Elections, after entering

Issuance of official ballot by Chairman of County Board of Elections.

on the register to be supplied to him for that purpose, by the State Board of Elections, the name of the voter, the number of the application, the precinct in which the applicant certified he is a qualified voter, the reason assigned as entitling the voter to the absentee ballot, the date of the receipt of the application, the date of the delivery of the ballot, and whether the ballot was delivered in person to the voter, to a member of his or her immediate family, or by mail, shall deliver in person, only, or to a member of his or her immediate family, or mail to the applicant at the designated post office address, an official ballot, with a container envelope, and a return envelope bearing the name, title, and address of the chairman issuing same.

Certificate of Chairman of County Board.

It shall be the duty of the Chairman of the County Board of Elections issuing such ballot, to place on the back thereof, by stamp, in writing, or otherwise, a certificate as follows:

I certify that this ballot was delivered in person to .... the voter who applied for same or to a member of his immediate family for him, or mailed to his post office address and whose application is on file in my office. That the container envelope furnished with the ballot bears the same number as the application upon which this ballot was issued.

(Signed) .....
Chairman ..... County Board of Elections.

Container envelopes provided for absentee ballots.

SEC. 4. It shall be the duty of the said Chairman of the County Board of Elections to fold the ballot, or ballots, enclose them in the container envelope to be furnished by him, which envelope shall bear upon the face thereof the name of the voter, the number of the application, and the precinct in which the ballot is to be voted, and upon the other side, a printed affidavit in one of the following forms, according to whether the application was based upon absence from the county, or upon illness of the voter, to-wit:

Affidavit of absent voter.

AFFIDAVIT OF ABSENTEE VOTER

North Carolina, ... County.

I, ..., do solemnly swear that I am a resident and duly qualified voter in ..... precinct ..... Township, ... County, North Carolina, and I am entitled to vote in such precinct in the general election to be held on the ..... day of ....., 19.....; that I find that I will be absent from my county during the day of the election; I further swear that I made due application for the ballot enclosed herein and received same

from the official to whom the application was made; I further swear that I marked the enclosed ballot, or ballots, or that the same were marked in my presence according to my instructions.

Date.....

P. O. Address..... (Signed).....

Sworn to and subscribed before me this ..... day of ....., 19.....

Witness my hand and official seal .....

Title of Officer

I, ..., hereby certify that I administered the oath of the affiant in the manner prescribed by laws; that the affiant exhibited the enclosed ballot to me; that the affiant marked such ballot or that the same was marked in his presence according to his instructions and enclosed the same and sealed it in this envelope; that affiant was not solicited nor advised by me to vote for or against any candidate, nor for or against any measure. Verification.

Date.....

(Signed) .....

Title of Officer

AFFIDAVIT OF SICK VOTER

Affidavit of sick voter.

I, ..., do solemnly swear that I am a resident and duly qualified voter in ..... precinct, ... Township, ... County, North Carolina, and I am entitled to vote in such precinct in the general election to be held on the ..... day of ....., 19.....; and that due to illness or other physical disability, I will be unable to travel from my home, or place of confinement, to the voting place in my precinct. I further swear that I made due application for the ballot enclosed herein and received the same from the official to whom application was made; I further swear that I marked the enclosed ballot, or that the same was marked in my presence according to my instructions.

Dated .....

P. O. Address .....

(Signed).....

Sworn to and subscribed before me this ..... day of ....., 19.....

Witness my hand and official seal .....

Title of Officer

I, ..., hereby certify that I administered the oath in the manner prescribed by law; Verification.

that the enclosed ballot was exhibited to me, by affiant, or by a member of his, or her, family, or attendant, and in the presence of the affiant; that I further certify that the ballot was marked by the elector, or that the same was marked in his presence according to his instructions. That the affiant was not solicited or advised by me to vote for or against any candidate, or measure.

Dated .....

(Signed) .....

The chairman shall also furnish, at the same time, an envelope bearing his name, title and address for the return of the ballot to him.

Instructions for voting absentee ballots.

SEC. 5. In using such ballot the absent voter shall make and subscribe to the appropriate affidavit prescribed in Section four hereof, before an officer authorized by law to administer oaths, having an official seal, which seal shall be affixed, and in the presence of such officer, mark the ballot, or ballots, or cause the same to be marked in his presence according to his instructions, and shall sign or cause to be signed on the back or margin of said ballot, or ballots, his or her name; and the ballot, or ballots, shall then in the presence of the officer be folded by the voter or attendant, so that each ballot will be separate and then in the presence of such officer be placed in the container envelope, and the container envelope securely sealed. The container envelope, with the ballot enclosed, shall be placed in the return envelope and shall be mailed or delivered by the voter, or some member of his or her immediate family, in person, to the Chairman of the County Board of Elections issuing the ballot. Such envelope containing the ballot must be in the hands of the Chairman of the County Board of Elections by three o'clock, P. M. on the day of the general election. No ballots received after that time shall be voted or counted.

List of applications made in triplicate.

SEC. 6. On the morning of the day before any general election, the Chairman of the County Board of Elections shall make a list, in triplicate, on blanks furnished by the State Board of Elections for that purpose, of all applications received by him from voters to whom he has issued absent voters ballots, and mail said list, with the original of all applications received by him, by registered mail, to the Chairman of the State Board of Elections, at Raleigh, North Carolina, and post one copy thereof at a conspicuous place at the courthouse door; reserving for himself the duplicate of said list. On said list he shall make, under oath, a certificate as follows:

List, together with all applications transmitted to Chairman of State Board.

Copy posted at Courthouse door.

I, ..., Chairman of the County Board of Elections of .....

County, do hereby certify that the foregoing is a list of all applications filed with me for absent voters ballots to be voted in the election, on the ..... day of ....., 19.....; and I further certify that I have issued ballots to no other persons than to those listed therein, whose original applications are enclosed and filed herewith; and I further certify that I did not deliver any of the ballots to any other person than to the elector, personally, or a member of his, or her, immediate family, or by mail addressed to the voter.

Certification by Chairman of County Board of Elections as to correctness of list.

(Signed) .....
Chairman ..... County
Board of Elections

Dated .....
Sworn to and subscribed before me this ..... day of ..... 19.....

Witness my hand and official seal .....
Title of Officer

SEC. 7. On the day preceding any general election, the Chairman of the County Board of Elections shall deliver to the registrar a list of all absent voters ballots issued for such precinct and on the day of the general election the Chairman of the County Board of Elections shall deliver the absent voters ballots received by him to the precinct officials of the appropriate and proper precinct or precincts in his county.

List of ballots issued for each precinct delivered to Registrar on day preceding election.

Delivery of absentee ballots.

The registrar shall post said list in a public place, at the opening of the polls in said precinct, where it can be seen and inspected by any interested voter.

Posting of precinct lists.

SEC. 8. Absent voters ballots shall be deemed to be voted when delivered to the precinct officials, unless upon being opened and inspected it shall appear that the affidavit and jurat, or either, are not in due form, or that the name on the container envelope, the ballot and the chairman's certificate do not correspond. In either of which events, the ballot shall not be voted, nor counted. At any time during the day or, if more convenient, immediately upon the closing of the polls for the voting of voters in person, the recording of the absent voters names on the poll book and depositing the ballot in the ballot box shall be begun and the procedure shall be as follows:

Deemed voted upon delivery to precinct officials.

Exception as to irregularities.

(1) The name of the voter as it appears on the affidavit shall be called by one of the judges of the elections. If it be found that he is a qualified voter of the precinct, and no challenge is offered to the vote, the name shall then be recorded on the poll book, with the notation—"Absent Voter." A judge

Opening, depositing and recording of absentee ballots.

of elections shall then open the envelope by slitting it with a sharp instrument in such manner as not to destroy, tear or obliterate any part of the affidavit; the ballot shall be removed from the envelope without unfolding the same so as to disclose how the ballot is marked, and if the signature of the voter on the ballot or ballots corresponds with the name on the envelope and with the name set out in the chairman's certificate on the back of the ballot, such ballot, without examination as to how it is marked, shall be deposited in the appropriate ballot box, as other ballots are deposited; *provided, however,* that if the name on the envelope and the name on the ballot and in the chairman's certificate on the back of the ballot do not correspond, or if the affidavit and jurat are not in due form, said ballot shall not be deposited in the ballot box, nor counted, but returned to its envelope and marked—"Rejected."

Rejected ballots.

Challenges.

(2) If an absent voter's ballot is challenged and the challenge is sustained, the ballot shall be returned to its envelope and marked "Challenge Sustained" and returned as provided for the return of rejected ballots.

Envelopes and rejected ballots filed with Chairman of County Board.

All envelopes shall be carefully preserved, and, with ballots marked "Rejected" and "Challenge Sustained," shall be filed with the Chairman of the County Board of Elections, at the time the returns from said precinct are filed, and shall be preserved, intact, by the Chairman of the County Board of Elections for a period of six months, or longer if any contest shall then be pending concerning the validity of any of the absentee ballots so delivered to him.

Challenged voter granted right of hearing before County Board.

SEC. 9. The absent voter, whose ballot has been challenged, shall, upon notice, have the right to appear before the County Board of Elections on canvass day and be given the opportunity to sustain the validity, and if its validity is sustained, his ballot shall be counted and added to the returns from the proper precincts.

Ballot added to returns if validity sustained.

Register of applications declared a public record.

SEC. 10. The register of applications for absent voters ballots, required to be kept by the Chairman of the County Board of Elections, shall constitute a public record and shall be opened to the inspection of any elector of the county, at any time within thirty days before and thirty days after any general election, or at any other time when good and sufficient reason may be assigned for such inspection.

Certification without administering oath made misdemeanor.

SEC. 11. Any person authorized to administer oaths, who wilfully signs a certificate that any person has subscribed and sworn to an affidavit for use in obtaining an absent voters application, or absent voters affidavit, or any other purported affidavit referred to and required by this Act, when, as a mat-

ter of fact, he has not administered the oath to such person, shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than one hundred dollars ($100.00), or imprisoned not less than sixty days, or both, in the discretion of the court.

False statements, under oath, made misdemeanor.

SEC. 12. If any person shall willfully and falsely make any affidavit or statement, under oath, which affidavit or statement, under oath, is required to be made by the provisions of this Act, such person shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine of not less than one hundred dollars ($100.00), or imprisoned for not less than sixty days, or both, in the discretion of the court.

False statements, not under oath, made misdemeanor.

SEC. 13. If any person, for the purpose of obtaining or voting any official ballot hereunder, shall willfully sign any printed or written false statement which does not purport to be under oath, or which, if it purports to be under oath, was not duly sworn to, such person shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than one hundred dollars ($100.00), or imprisoned not less than sixty days, or both, in the discretion of the court.

Custody of applications, ballots, etc.

SEC. 14. The Chairman of the County Board of Elections in each county shall be the sole custodian of blank applications for absent voters ballots, the official ballots, blank certificates and envelopes, and he shall issue same only in strict accordance with the provisions of this Act. The issuance of such absent voters ballots is the responsibility and duty of the Chairman of the County Board of Elections. Blank applications for absent voters ballots may be delivered to any elector applying for same. He shall keep all records and make all reports, promptly, required by him by the terms of this Act.

Records and reports.

Wilful violations made misdemeanor.

The wilful violation of the terms of this section shall constitute a misdemeanor, and upon conviction, the offender shall be fined not less than one hundred dollars ($100.00), or imprisoned not less than sixty days, or both, in the discretion of the court.

SEC. 15. If any person shall willfully violate any of the provisions of this Act, or willfully fail to comply with any of the provisions thereof, for which no other punishment is herein provided, such person shall be guilty of a misdemeanor, and upon conviction, shall be fined not less than one hundred dollars ($100.00), or imprisoned not less than six months, or both, in the discretion of the court.

Reports of violations to Attorney General and Solicitor.

SEC. 16. It shall be the duty of the State Board of Elections to report to the Attorney General of North Carolina, and to

the solicitor of the appropriate judicial district, any violation of this Act, or the failure of any person charged with a duty hereunder to comply with and perform such duty, and it shall be the duty of the solicitor to cause such person to be prosecuted therefor.

Existing laws, and conflicting laws repealed.

SEC. 17. All existing laws relating to voting by absentee ballot in the State of North Carolina are hereby repealed and all laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 18. This Act shall be in full force from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 487 CHAPTER 160

AN ACT TO REPEAL CHAPTER ONE HUNDRED EIGHTY-FIVE, PUBLIC LAWS ONE THOUSAND NINE HUNDRED TWENTY-NINE ENTITLED "AN ACT TO PREVENT THE BURNING OF TIMBER LANDS IN ONSLOW COUNTY DURING THE MONTHS FROM MARCH TO NOVEMBER, INCLUSIVE."

The General Assembly of North Carolina do enact:

Ch. 185, Public Laws, 1929, repealed.

SECTION 1. That Chapter one hundred eighty-five of the Public Laws of one thousand nine hundred twenty-nine, being an "Act to prevent the burning of timber lands in Onslow County during the months from March to November, inclusive" be, and the same is hereby repealed.

Burning of woodlands, etc. Onslow County, subject to provision of C. S. 4309.

SEC. 2. That from and after the ratification of this Act all of the provisions of Consolidated Statutes, Section four thousand three hundred nine, governing the burning of woodland, grassland and brushland shall be in full force and effect in Onslow County.

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

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 525 **CHAPTER 161**

AN ACT TO PRESCRIBE MINIMUM RATES FOR LIFE INSURANCE COMPANIES.

The General Assembly of North Carolina do enact:

Minimum premium rates for life insurance companies.

SECTION 1. That no assessment life insurance corporation, organization or association of any kind issuing policies or contracts upon the life of any resident of this State shall hereafter be organized or licensed by the Insurance Commissioner unless such corporation, organization or association adopt premium rates based upon the attained age of the assured at the time of issuance of the contract and such rates shall not be less than those fixed by the American Experience Table of Mortality or any other recognized table of mortality approved by the Insurance Commissioner. Nothing contained in this Act shall be construed to affect burial associations regulated under Chapter two hundred thirty-nine, Public Laws of one thousand nine hundred thirty-seven, or Railroad Burial Associations.

Burial Associations exempted.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 545 **CHAPTER 162**

AN ACT TO AMEND HOUSE BILL FIVE, ENTITLED "AN ACT TO AMEND CHAPTER ONE HUNDRED NINETY-FOUR OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-NINE, AS AMENDED BY CHAPTER THREE HUNDRED OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, KNOWN AS THE 'PURE SEED LAW'," RATIFIED MARCH FIRST, ONE THOUSAND NINE HUNDRED AND THIRTY-NINE.

The General Assembly of North Carolina do enact:

Ch. 64, Public Laws, 1939, amended to increase quantity of packaged seed requiring $1 revenue Stamp under Pure Seed Law.

SECTION 1. That Section one of House Bill five, entitled "An Act to amend Chapter one hundred ninety-four of the Public Laws of one thousand nine hundred and twenty-nine, as amended by Chapter three hundred of the Public Laws of one thousand nine hundred and thirty-seven, known as the 'Pure Seed Law'," ratified March first, one thousand nine hundred and thirty-nine, be, and the same is hereby, amended by striking out the word "forty-eight" in line nine of said section and inserting in lieu thereof the word "seventy-two."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 603 CHAPTER 163

AN ACT TO DESCRIBE, DEFINE, AND OFFICIALLY ADOPT A SYSTEM OF COORDINATES FOR DESIGNATING THE POSITIONS OF POINTS ON THE SURFACE OF THE EARTH WITHIN THE STATE OF NORTH CAROLINA: TO DESIGNATE THE ADMINISTRATIVE AGENCY FOR SAID SYSTEM: AND TO DEFINE THE POWERS AND DUTIES OF THIS AGENCY.

The General Assembly of North Carolina do enact:

North Carolina Coordinate System adopted.

SECTION 1. Name and Description. That the official survey base for the State of North Carolina shall be a system of plane coordinates to be known as the "North Carolina Coordinate System," said system being defined as a Lambert conformal projection of Clarke's spheroid of one thousand eight hundred sixty-six, having a central meridian of 79°—00′ West from Greenwich and standard parallels of latitude of 34°—20′ and 36°—10′ North of the equator, along which parallels the scale shall be exact. All coordinates of the system are expressed in feet, the x coordinate being measured easterly along the grid and the y coordinate being measured northerly along the grid. The origin of the coordinates is hereby established on the meridian 79°—00′ West from Greenwich at the intersection of the parallels 33°—45′ North latitude, such origin being given the coordinates $x=2{,}000{,}000$ feet, $y=0$ feet. The precise position of said system shall be as marked on the ground by triangulation or traverse stations or monuments established in conformity with the standards adopted by the United States Coast and Geodetic Survey for first-and second-order work, whose geodetic positions have been rigidly adjusted on the North American Datum of one thousand nine hundred twenty-seven, and whose plane coordinates have been computed on the system defined.

Conformity with standards adopted by the U. S. Coast and Geodetic Survey.

Physical control.

SEC. 2. Physical Control. That any triangulation or traverse station or monument established as described in Section one of this Act may be used in establishing a connection between any survey and the above-mentioned system of rectangular coordinates.

Use of name.

SEC. 3. Use of Name. That the use of the term "North Carolina Coordinate System" on any map, report, or survey, or other document, shall be limited to coordinates based on the North Carolina Coordinate System as defined in this Act.

Damaging or destroying monuments made misdemeanor.

SEC. 4. Damaging, Defacing, or Destroying Monuments. That, if any person shall willfully damage, deface, destroy, or otherwise injure a station, monument or permanent mark of the North Carolina Coordinate System, or shall oppose any obstacles to the proper, reasonable, and legal use of any such station or monument, such person shall be guilty of a misdemeanor, and shall be liable to fine or imprisonment at the discretion of the court.

Limitations on use of system.

SEC. 5. Limitations of Use. That no coordinates based on the North Carolina Coordinate System purporting to define the position of a point on a land boundary shall be presented to be recorded in public land records or deed records unless such point in the survey is within one-half mile of a station or monument of the North Carolina Coordinate System; *provided*, that the administrative agency for said system may, by rules and regulations, increase or decrease such limiting distance for the whole State, or any area or areas thereof.

Use in descriptions.

SEC. 6. Legality of Use in Descriptions. That, for the purpose of describing the location of any survey station or land boundary corner in the State of North Carolina, it shall be considered a complete, legal, and satisfactory description to define the location of such point or points by means of coordinates of the North Carolina Coordinate System as described herein, and within the limitations of Section five of this Act.

SEC. 7. Use not Compulsory. That nothing contained in this Act shall be interpreted as requiring any purchaser or mortgagee to rely wholly on a description based upon the North Carolina Coordinate System.

Department of Conservation and Development made administrative agency.

SEC. 8. Administrative Agency. That the administrative agency of the North Carolina Coordinate System shall be the North Carolina Department of Conservation and Development, through its appropriate division, hereinafter called the "Agency."

Power and duties.

SEC. 9. Duties and Powers of the Agency. That it shall be the duty of the Agency to make or cause to be made from time to time such surveys and computations as are necessary to further or complete the North Carolina Coordinate System. The Agency shall endeavor to carry to completion as soon as practicable the field monumentation and office computations of the Coordinate System. For the purpose of this work the Agency shall have the power to accept grants for the specific purpose of carrying on the work; to coordinate, organize, and direct any federal or other assistance which may be offered to further the work; to cooperate with any individual, firm, company, public or private agency, state or federal agencies, in the prosecution of the work; to enter into

contracts or cooperative agreements with other state or federal agencies in promoting the work of the Coordinating System. The Agency shall further have the power to adopt necessary rules, regulations, and specifications relating to the establishment and use of the Coordinate System as defined in this Act, consistent with the standards and practice of the United States Coast and Geodetic Survey.

Prior work made part of system.

SEC. 10. Prior Work. That the system of stations, monuments, traverses, computations, and other work which has been done or is under way in North Carolina by the so-called North Carolina Geodetic Survey, under the supervision of the United States Coast and Geodetic Survey, is, where consistent with the provisions of this Act, hereby made a part of the North Carolina Coordinate System. The surveys, notes, computations, monuments, stations, and all other work relating to the Coordinate System, which has been done by said North Carolina Geodetic Survey, under the supervision of and in cooperation with the United States Coast and Geodetic Survey and Federal relief agencies, hereby are placed under the direction of, and shall become the property of, the Administrative Agency, subject to the agreement of the Federal Works Progress Administration.

Adoption of standards for vertical control.

SEC. 11. Vertical Control. That, whereas the foregoing provisions of this Act heretofore are related to horizontal control only, the Administrative Agency may adopt standards for vertical control or leveling surveys consistent with those recommended by and used by the United States Coast and Geodetic Survey, and make or cause to be made such surveys as are necessary to complete the vertical control of North Carolina, in accordance with the provisions for horizontal control surveys as defined in this Act.

SEC. 12. Date of Act. That this Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 620 CHAPTER 164

AN ACT TO AMEND SECTION TWO THOUSAND SEVEN HUNDRED EIGHTY-SEVEN OF THE CONSOLIDATED STATUTES SO AS TO GRANT TO CITIES AND TOWNS THE POWER TO REGULATE THE OPENING AND CLOSING HOURS OF BARBER SHOPS.

C. S. 2787, amended to grant to cities and towns power to regulate opening and closing hours of barber shops.

The General Assembly of North Carolina do enact:

SECTION 1. That Section two thousand seven hundred eighty-seven of the Consolidated Statutes of North Carolina be, and the

same is hereby amended by adding at the end thereof the following:

"That the governing authorities of all cities and towns of North Carolina shall have the power to pass, alter, amend and repeal ordinances regulating the opening and closing hours of barber shops."

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 629 CHAPTER 165

AN ACT TO AMEND CHAPTER TWO HUNDRED FORTY-TWO PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN AND TO PROVIDE MORE COMPLETE EDUCATIONAL ADVANTAGES IN STATE INSTITUTIONS TO NEEDY WORLD WAR ORPHANS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one, Chapter two hundred forty-two, Public Laws of one thousand nine hundred thirty-seven, be, and the same is hereby, amended by striking out the period at the end of the first sentence of the second paragraph of said section and inserting in lieu thereof a comma and then inserting the following words "and such other items and institutional services as are embraced within the so-called institutional matriculation fees and other special fees and charges required to be paid as a condition to remaining in said institution and pursuing the course of study selected." Sec. 1, Ch. 242, Public Laws, 1937, amended to provide additional advantages in State institutions to needy World War orphans.

SEC. 2. That Section two, Chapter two hundred forty-two, Public Laws of one thousand nine hundred thirty-seven, be, and the same is hereby, amended by inserting in line two of said section and after the word "board" and before the word "to" the following words "and other items and services as aforesaid." Sec. 2 amended in conformity.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 634 CHAPTER 166

AN ACT TO PERMIT CERTAIN CORRECTIONAL INSTITUTIONS TO MAKE CONTRACTS WITH THE OFFICE OF THE UNITED STATES ATTORNEY GENERAL OR SUCH NECESSARY FEDERAL AGENCY FOR THE CARE OF PERSONS UNDER FEDERAL JURISDICTION.

The General Assembly of North Carolina do enact:

Contracts with office of U. S. Attorney General or Federal agencies for care of persons committed under Federal Juvenile Delinquency Act.

SECTION 1. That the governing boards of the Stonewall Jackson Manual Training and Industrial School, Morrison Training School for Negro Boys, Eastern Carolina Training School, the State Home and Industrial School for Girls, and the State Industrial Farm Colony for Women may and they are hereby empowered to make and enter into contractual relations with the office of the United States Attorney General, the Bureau of Prisons of the United States Department of Justice, or such necessary Federal agency for the care, keeping, correction, training, education, and supervision of delinquent children or other persons under the jurisdiction, custody, or care of the Federal courts or of the said office of the United States Attorney General, the Bureau of Prisons of the United States Department of Justice, or such necessary Federal agency, as authorized by the terms of the Federal Juvenile Delinquency Act of one thousand nine hundred thirty-eight, and may receive, accept, hold, train, and supervise such persons as may be received from said courts or department under the rules and regulations of the several and respective institutions as prescribed or as may hereafter be established by the said governing boards, *provided, however* that such contracts or subsequently established rules of care, procedure, and training, of those committed to said institutions, first shall have been approved by the State Board of Charities and Public Welfare.

Approval by State Board of Charities and Public Welfare.

Term of contract.

SEC. 2. Any contract made under the authority and provision of this Act shall be for a period of not more than two years, and shall be renewable from time to time for a period of not to exceed two years.

SEC. 3. Any contracts entered into under the provisions of this Act by the office of the United States Attorney General, the Bureau of Prisons of the United States Department of Justice, or such necessary Federal agency with any of the contracting institutions for the care of any persons coming within the provisions of this Act shall not be less than the current estimated cost per capita at the time of execution of the contract, and all such financial provisions of any contract shall, before the execution of said contract, have the approval of the Budget Bureau of North Carolina. Any payments received under the contracts authorized by this Act shall be deposited in the State Treasury for the use and maintenance of the institution with which any such contract is made. Such payments are hereby appropriated to said institution as a supplementary fund to compensate the institution for

Approval by N. C. Budget Bureau.

Payments received under contracts deposited in State Treasury for benefit of such institutions.

the additional care and maintenance of such persons as are received under the provisions of this Act.

SEC. 4. That all laws and clauses of laws in conflict with this Act shall be and are hereby repealed. Conflicting laws repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 668 CHAPTER 167

AN ACT TO AMEND CHAPTER TWO HUNDRED AND SIXTY-SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-FIVE, PROVIDING FOR SALES OF STOCK, BONDS OR OTHER SECURITIES BY EXECUTORS AND ADMINISTRATORS.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter two hundred and sixty-seven of the Public Laws of one thousand nine hundred twenty-five be, and the same is hereby, amended by adding a new section thereto to be known and designated as Section three (b) as follows: Ch. 267, Public Laws, 1925, amended.

"SEC. 3b. That where the property to be sold consists of stocks, bonds, or other securities, having a known or readily ascertainable market value, and which are bought or sold on any stock or securities exchange, supervised or regulated by the United States Government or any of its agencies or departments, the executor or administrator may, upon first obtaining an order approving the sale from the Clerk of Superior Court having jurisdiction of the estate, sell the same privately at the current market price, and such sale shall be valid and final. Private sales of securities by executors and administrators.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 750 CHAPTER 168

AN ACT TO AMEND CHAPTER FORTY-NINE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, AS TO METHOD OF SELECTION OF COUNTY BOARD OF ALCOHOLIC CONTROL, IN DARE COUNTY.

The General Assembly of North Carolina do enact:

Ch. 49, Public Laws, 1937, amended as to method of selection of County Board of Alcoholic Control, Dare County.

SECTION 1. That Section six of Chapter forty-nine of the Public Laws of one thousand nine hundred thirty-seven, be, and the same is hereby, amended by striking out the word "joint" in line seven and the words "the County Board of Health and the County Board of Education", in line eight: *Provided, further*, that this shall apply only to Dare County.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 759 CHAPTER 169

AN ACT TO AMEND CHAPTER THREE HUNDRED THIRTY-SIX, PUBLIC LAWS OF NORTH CAROLINA, SESSION ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO THE PAYMENT TO THE CLERK OF THE SUPERIOR COURT OF MONIES DUE ESTATES OF INTESTATES, AND TO PROVIDE FOR THE ADMINISTRATION OF THE SAME.

The General Assembly of North Carolina do enact:

Ch. 336, Public Laws, 1937, providing for payment of monies due intestates to public administrator, amended to apply to Pitt County.

SECTION 1. That Section thirteen of Chapter three hundred thirty-six, Public Laws of one thousand nine hundred thirty-seven, be and the same is hereby amended by striking out in line one after the word "Forsyth" the words "County only" and inserting in lieu thereof after the word "Forsyth" the words "and Pitt Counties only."

SEC. 2. That this Act shall be in full force and effect from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

S. B. 143 **CHAPTER 170**

AN ACT TO REGULATE THE PUBLICATION OF LEGAL NOTICES AND OTHER LEGAL AND PUBLIC ADVERTISEMENTS AND TO DEFINE NEWSPAPERS IN WHICH SUCH NOTICES AND ADVERTISEMENTS SHALL BE PUBLISHED.

The General Assembly of North Carolina do enact:

Regulations for publication of legal notices and advertisements, etc.

SECTION 1. Whenever a notice or any other paper, document or legal advertisement of any kind or description shall be authorized or required by any of the laws of the State of North Carolina, heretofore or hereafter enacted, or by any order or judgment of any court of this State to be published or advertised in a newspaper, such publication, advertisement or notice shall be of no force and effect unless it shall be published in a newspaper with a general circulation to actual paid subscribers which newspaper at the time of such publication, advertisement or notice, shall have been admitted to the United States mails as second class matter in the county or political subdivision where such publication, advertisement or notice is required to be published, and which shall have been regularly and continuously issued in the county in which the publication, advertisement or notice is authorized or required to be published, at least one day in each calendar week for at least twenty-five of the twenty-six consecutive weeks immediately preceding the date of the first publication of such advertisement, publication or notice; *provided* that in the event that a newspaper otherwise meeting the qualifications and having the characteristics prescribed by this Act should fail for a period not exceeding four weeks in any calendar year to publish one or more of its issues such newspaper shall nevertheless be deemed to have complied with the requirements of regularity and continuity of publication prescribed herein.

Qualifications required of newspapers used for publications.

Exception.

Annual statement as to qualifications filed with Clerk Superior Court.

SEC. 1½. Every newspaper in this State which shall publish any such legal notice or other legal advertisement, as mentioned in Section one, shall, in each calendar year, file with the Clerk of the Superior Court of the county in which it is published a sworn statement that such newspaper is a newspaper meeting the qualifications of this Act, which sworn statement, when filed, shall be prima facie evidence of the qualification of such newspaper under this Act during such calendar year, and any such legal notice or other legal advertisement published in any such newspaper filing such sworn statement as herein provided shall be valid; and any owner, publisher or manager of a newspaper who shall violate the provisions of this section, or any person who shall make or file a statement as required by this section which shall be false at the time of such statement, shall be guilty of a misdemeanor.

Violations made misdemeanor.

Application of Act.

SEC. 2. The provisions of this Act shall not apply in counties wherein only one newspaper is published, although it may not be

a newspaper having the qualifications prescribed by Section one of this Act; nor shall the provisions of this Act apply in Yadkin County nor in any county wherein none of the newspapers published in such county has the qualifications and characteristics prescribed by Section one of the Act.

Conflicting laws repealed.

SEC. 3. All laws and clauses of laws in conflict with this Act are hereby repealed.

Act not retroactive.

SEC. 4. This Act shall not be retroactive in its application and effect and shall apply only to advertisements, notices and other forms of publications, the date of the first publication of which is subsequent to the effective date of this Act.

Counties exempt.

SEC. 4½. That this Act shall not apply to Wake, Chatham and Stanly Counties.

SEC. 5. This Act shall be in full force and effect from and after May first, one thousand nine hundred forty.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

S. B. 318 CHAPTER 171

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED AND FORTY-THREE OF THE CONSOLIDATED STATUTES AND ALL AMENDMENTS THERETO PROVIDING FOR EXTRA TERMS OF THE SUPERIOR COURT OF ROBESON COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1443, amended.

SECTION 1. That in addition to the terms of Superior Court now provided for the County of Robeson by and under Section one thousand four hundred and forty-three of the Consolidated Statutes, and all amendments thereto, there shall also be held in Robeson County, Superior Courts to which judges shall be assigned, the following terms:

Additional terms of Superior Court, Robeson County.

"Seventh Monday before the first Monday in March two weeks for the trial of civil cases; seventh Monday after the first Monday in March one week for the trial of civil cases; first Monday before the first Monday in September one week for the trial of civil cases; tenth Monday after the first Monday in September one week for the trial of civil cases."

September civil term increased to two weeks.

SEC. 2. That the term of the Superior Court of Robeson County beginning on the eighth Monday before the first Monday in September for the trial of civil cases be increased from a one week term to a two weeks term for the trial of civil cases.

SEC. 3. Upon ratification of this Act the Secretary of State shall immediately certify a copy of same to the Clerk of the Superior Court of Robeson County. Certification of copy of Act to Clerk Superior Court.

SEC. 4. That this Act shall be in full force and effect from and after the first day of July, one thousand nine hundred and thirty-nine. Effective date.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

S. B. 389 **CHAPTER 172**

AN ACT TO AMEND SECTION ONE THOUSAND TWO HUNDRED NINETY-SIX OF THE CONSOLIDATED STATUTES, VOLUME ONE, ONE THOUSAND NINE HUNDRED NINETEEN, RELATIVE TO SPECIAL MEETINGS OF THE BOARD OF COUNTY COMMISSIONERS OF RANDOLPH COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand two hundred ninety-six of the Consolidated Statutes, Volume one, one thousand nine hundred nineteen, be amended by adding a provision at the end thereof to read as follows: "*Provided*, that in Randolph County special meetings of the Board of County Commissioners may be held at any time other than the time for regular meetings, upon the written request of one member of the board or at the call of the chairman, upon notice to each member of the board thereof stating the time and place of such called meeting at least six hours before the meeting is to be called and by posting such notice at the courthouse door for at least six hours before the time of the meeting." C. S., 1919, Vol. I, Section 1296, amended. Special meetings of County Commissioners, Randolph County, authorized. Notice.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 226 **CHAPTER 173**

AN ACT TO EXTEND THE POWERS OF THE COMMISSIONER AND THE STATE BOARD OF AGRICULTURE RELATIVE TO THE CONTROL AND REGULATION OF THE HONEY AND BEE INDUSTRY IN THIS STATE.

The General Assembly of North Carolina do enact:

C. S., 1919, Vol. 2, section 4688, amended.

SECTION 1. That Section four thousand six hundred and eighty-eight, Subsection three, Volume two, of the Consolidated Statutes of one thousand nine hundred and nineteen, be amended by adding a new subsection to be designated as Subsection three (a), to read as follows:

Regulation and control of honey and bee industry in State for eradication of disease.

"3(a). With investigations adapted to promote the improvement of the honey and bee industry in this State, and especially investigations relating to the diseases of bees, and shall publish and distribute from time to time information relative to such diseases, and such remedies therefor, and shall have power in such cases to quarantine the infected bees and to control or eradicate such infections and to regulate the transportation or importation into North Carolina from any other state or country of bees, honey, hives, or any apiary equipment, or from one section of the State to another, and may cooperate with the United States Department of Agriculture in establishing and maintaining quarantine lines or districts. The Commissioner of Agriculture, by and with the consent and advice of the Board of Agriculture, shall have power to make rules and regulations to carry out the provisions of this section; and

Confiscation and destruction of bees and equipment authorized upon failure to comply with regulations.

in event of failure to comply with any such rules and regulations, the Commissioner of Agriculture or his duly authorized agent is authorized to confiscate and destroy any infected bees and equipment and any bees and/or used apiary equipment moved in violation of these regulations."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 257 CHAPTER 174

AN ACT TO PLACE MRS. EMILY J. HENSON, WIDOW OF JESSE HENSON, A CONFEDERATE VETERAN OF JACKSON COUNTY, ON THE PENSION ROLL.

The General Assembly of North Carolina do enact:

Mrs. Emily J. Henson placed on Confederate pension roll.

SECTION 1. That Mrs. Emily J. Henson, widow of Jesse Henson, a Confederate veteran of Jackson County be, and she is hereby, placed on the pension roll as a widow of a Confederate veteran: *Provided*, that no benefits shall be paid hereunder to the said Mrs. Emily J. Henson until when as and if she shall have qualified therefor under the General State Pension Laws.

Qualification.

SEC. 2. That this Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 461 CHAPTER 175

AN ACT TO TRANSFER MRS. MAGGIE A. PHELPS, WIDOW OF A CONFEDERATE VETERAN, OF BERTIE COUNTY, FROM CLASS "B" TO CLASS "A" ON THE CONFEDERATE PENSION ROLL.

Preamble: Mrs. Maggie A. Phelps now on Class "B" pension roll.

WHEREAS, Mrs. Maggie A. Phelps, widow of A. B. Phelps, a Confederate veteran of Bertie County, who is now on the pension roll in Class "B"; and

Mrs. Phelps without income or property.

WHEREAS, the said Mrs. Maggie A. Phelps is old and unable to work, and is without any income or property: Now, therefore,

The General Assembly of North Carolina do enact:

Mrs. Maggie A. Phelps transferred to Class "A" pension roll.

SECTION 1. That Mrs. Maggie A. Phelps, of Bertie County, widow of A. B. Phelps, a Confederate veteran, be and she is hereby placed on the pension roll to receive the pension now allowed widows of Confederate veterans in Class "A".

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 532 CHAPTER 176

AN ACT TO REPEAL CHAPTER FOUR HUNDRED FORTY-FOUR OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO PROFIT ON CERTAIN SALES OF ELECTRICITY BY ONE MUNICIPALITY TO ANOTHER.

The General Assembly of North Carolina do enact:

Ch. 444, Public Laws, 1937, repealed.

SECTION 1. That Chapter four hundred forty-four of the Public Laws of one thousand nine hundred thirty-seven be, and the same is hereby, repealed.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 718 CHAPTER 177

AN ACT TO FURTHER REGULATE THE ACQUISITION, HOLDING AND TRANSFER OF TITLE TO PROPERTY BY RELIGIOUS SOCIETIES AND DENOMINATIONS, AND TO VALIDATE CERTAIN TRANSFERS OF TITLE.

The General Assembly of North Carolina do enact:

Authority of bishops, ministers or ecclesiastical officers of religious societies and denominations to acquire, hold and transfer property.

SECTION 1. That whenever the laws, rules, or ecclesiastic polity of any church or religious sect, society or denomination, commits to its duly elected or appointed bishop, minister or other ecclesiastical officer, authority to administer its affairs, such duly elected or appointed bishop, minister or other ecclesiastical officer shall have power to acquire by gift, purchase or otherwise, and to hold, improve, mortgage, sell and convey the property, real or personal, of any such church or religious sect, society or denomination, for the purposes, in the manner and otherwise as authorized and permitted by its laws, rules or ecclesiastic polity; and in the event of the transfer, removal, resignation or death of any such bishop, minister or other ecclesiastical officer, the title and all rights with respect to any such property shall pass to and become vested in his duly elected or appointed successor immediately upon appointment or election, and pending appointment or election of such successor, such title and rights shall be vested in such person or persons as shall be designated by the laws, rules or ecclesiastic polity of such church or religious sect, society or denomination.

SEC. 2. That all deeds, deeds of trust, mortgages, wills or other instruments heretofore made to or by a duly elected or appointed bishop, minister or other ecclesiastical officer, who, at the time of the making of any such deed, deed of trust, mortgage, will or other instrument, or thereafter, had authority to administer the affairs of any church, religious sect, society or denomination under its laws, rules or ecclesiastic polity, transferring property, real or personal, of any such church or religious sect, society or denomination, are hereby ratified and declared valid; and all transfers of title and rights with respect to property, prior to the date of the ratification of this Act, from a predecessor bishop, minister or other ecclesiastical officer who has resigned or died, or has been transferred or removed, to his duly elected or appointed successor, by the laws, rules or ecclesiastic polity of any such church, or religious sect, society or denomination, either by written instruments or solely by virtue of the election or appointment of such successor, are also hereby ratified and declared valid.

Execution of prior instruments validated.

Prior transfers validated.

SEC. 3. That this Act shall not affect vested rights or pending litigation, or repeal any of the provisions of Sections three thousand five hundred sixty-eight to three thousand five hundred seventy-one inclusive of the Consolidated Statutes, or of Chapter two hundred sixty-four of the Public Laws of one thousand nine hundred twenty-five.

Vested rights and pending litigation unaffected.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 728 **CHAPTER 178**

AN ACT TO CHANGE THE NAME OF THE FAYETTEVILLE STATE NORMAL SCHOOL AT FAYETTEVILLE TO THE FAYETTEVILLE STATE TEACHERS COLLEGE, AND TO PROVIDE ADVANCED COURSES OF INSTRUCTION FOR ELEMENTARY TEACHERS AND PRINCIPALS.

WHEREAS, there is urgent need in negro schools for elementary teachers who have had a four years course and who hold grammar grade and primary class A certificates; and

WHEREAS, the State Board of Education through the certification requirements specifies that as of July first, one thousand nine hundred forty, and thereafter the issuance of the class A certificates will be based upon a satisfactory completion of the requirements for a degree from a standard college,

Preamble: Need in negro schools for elementary teachers with Class A certificates, etc.

along with, or in addition to, the specific certificate requirements: Now, therefore,

The General Assembly of North Carolina do enact:

"Fayetteville State Teachers College."

SECTION 1. The Fayetteville State Normal School, located at Fayetteville, shall hereafter be known as the Fayetteville State Teachers College.

Establishment of four-year courses in elementary education at Fayetteville State Teachers College, authorized.

SEC. 2. The State Board of Education, subject to the provisions of an "An Act to place certain normal schools under the control of the State Board of Education," Chapter sixty-one, Public Laws of nineteen hundred and twenty-one, is hereby authorized and empowered to establish in the Fayetteville State Teachers College four-year courses in the field of elementary education to train elementary teachers qualified to obtain grammar grade and primary class A certificates, and to train elementary school principals for rural and city schools.

Degrees granted for four-year course subject to Ch. 136, Public Laws, 1923.

SEC. 3. The degrees to be granted by the Fayetteville State Teachers College for the completion of a four-year course of study shall be subject to the State Board of Education in accordance with Article thirty-six, Chapter one hundred and thirty-six, Public Laws, nineteen hundred and twenty-three, which gives the State Board of Education authority to regulate degrees.

SEC. 4. This Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. B. 756 **CHAPTER 179**

AN ACT TO AMEND SECTION FIVE THOUSAND ONE HUNDRED AND EIGHTY-ONE OF THE CONSOLIDATED STATUTES RELATING TO FEDERAL SAVINGS AND LOAN ASSOCIATIONS.

The General Assembly of North Carolina do enact:

C. S., 1919, Section 5181, amended to admit married women and minors as shareholders in federal savings and loan associations.

SECTION 1. That Section five thousand one hundred and eighty-one of the Consolidated Statutes of one thousand nine hundred nineteen be, and the same is, hereby amended by adding at the end thereof, the following: "The provisions of this section shall apply to federal savings and loan associations having their principal offices in this State."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

S. B. 156 CHAPTER 180

AN ACT TO AMEND SECTIONS FIVE THOUSAND THREE HUNDRED AND FIVE THOUSAND THREE HUNDRED ONE OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA SO AS TO MORE SPECIFICALLY PROVIDE FOR THE ORGANIZATION, PROVIDING THE NAME, NAMING THE OFFICERS AND DIRECTORS, THE AUTHORITY OF DIRECTORS IN MAKING ASSESSMENTS BY AND UNDER DRAINAGE CANAL CORPORATIONS AND FOR OTHER PURPOSES.

The General Assembly of North Carolina do enact:

SECTION 1. That Section five thousand three hundred of the Consolidated Statutes of North Carolina be, and the same is hereby, amended by striking out said section and inserting in its lieu and stead the following: C. S. 5300, amended.

"5300. Organization; corporate name, officers and powers. The clerk of the court of the county in which the proceeding is pending or any corporator, who is a petitioner, may call a meeting of the corporators, at which meeting the corporators shall choose a name for the corporation, unless the commissioners selected the name, elect a president, vice president, secretary and treasurer, but said officers shall be chosen or elected from the corporators who are petitioners in the proceeding; and they shall also choose or elect a board of directors and they shall be chosen or elected from the corporators who are petitioners in the proceeding. The corporators shall also make all by-laws and regulations, not contrary to law, which may be necessary and proper for effecting the purpose of the corporation, but said duty may be delegated to the board of directors. They shall fix the number of shares of stock, and assign to each proprietor or corporator his proper number, but this duty and right may be delegated to and done by the board of directors. That the board of directors shall have such powers as are generally given to directors under the Corporation Law of the State; and they shall assess the sums or amount which shall be paid by each proprietor or corporator in conformity with and in compliance with the report of the commissioners on which the corporation is based. When said assessments against said proprietors or corporators and their lands affected are

Organization of drainage canal corporations.

Selection of name.

Election of officers and board of directors.

By-laws and regulations.

Assignment of stock, etc.

Powers of board of directors.

Assessments.

Assessments certified to C. S. C.

duly certified to the Clerk of the Superior Court of the county in which such proceeding was instituted, the same shall be passed upon by the clerk of court and when approved by the clerk, said assessments shall become judgments against the several proprietors, corporators and owners so assessed, and the same shall be liens on the lands of the owners or corporators against whom said assessments were made and judgments entered, subject only to taxes, but said judgments shall be judgments in rem only. That the board of directors will also have power, if they deem it proper, to fix and prescribe the time, mode and manner of payment; and do such other things as are necessary for the construction, enlargement and keeping up or maintaining said canal and improvement. That in every meeting of the corporators or stockholders, each proprietor or corporator shall have one vote for each share of stock owned by him."

Judgment liens upon approval by Clerk.

Manner of payment.

One vote for each share of stock.

C. S. 5301, amended.

SEC. 2. That Section five thousand three hundred one of the Consolidated Statutes of North Carolina be, and the same is hereby amended as follows:

Incorporation of canal already constructed.

By striking out from said section the colon after the word "rendered" in the third line from the bottom of page one hundred eighty-nine of Volume II of Consolidated Statutes, and in the sixth line from the bottom of said section and insert in lieu thereof a period; and strike out all of the rest of said section beginning with the word "Provided" in the third line from the bottom of page one hundred eighty-nine of Volume II of Consolidated Statutes and in the sixth line from the bottom of said section.

C. S. 5301, further amended.

That Section five thousand three hundred one is further amended by adding at the bottom of said section, as amended by this Act, the following:

That upon the return date of the summons or on the hearing by the clerk as provided in this section, the clerk of the court may appoint three persons as commissioners, who having been duly sworn shall examine the premises and inquire and report:

Appointment and report of Commissioners.

Plan of canal.

1. The route and plan of the canal, including the breadth, depth and slope as nearly as they can be calculated, with all other particulars necessary for calculating the cost of enlarging and improving said canal.

Probable cost.

2. The probable cost of the improvement and enlargement of said canal.

Proportionate payments.

3. The proportion which each proprietor or corporator ought in equity and justice to pay toward the enlargement, improvement and permanent support and upkeep of said canal.

4. With their report they shall return a map explaining as accurately as may be, the various matters required and necessary in aid or explanation of their report. Map returned with report.

5. That the said report shall be heard and determined as other reports in special proceedings, and if approved by the clerk, such proprietors shall become a body corporate or a corporation. Determination and approval of report.

6. That a meeting of the corporators may be called by the clerk of court or by any corporator or proprietor who is a petitioner in the proceeding, and at such meeting a president, vice president, secretary and treasurer shall be elected from the proprietors or corporators who are petitioners; and also a board of directors shall be elected from the proprietors or corporators who are petitioners in the proceeding. Election of officials and board of directors.

7. That the board of directors shall assess the sum or amount which shall be paid by each proprietor or corporator in conformity and compliance with the report of the commissioners on which the corporation was based. When said assessments against said proprietors or corporators and their lands affected are duly certified to the Clerk of the Superior Court of the county in which said proceeding was pending and instituted, the same shall be passed upon by the clerk of court, and when approved by the clerk, said assessments shall become judgments against the several proprietors or corporators so assessed, and the same shall be liens on the lands of the owners or corporators against whom said assessments were made and judgments entered, subject only to taxes, but said judgments shall be judgments in rem only. That the board of directors will also, if they deem it proper, fix and prescribe the time, manner and mode of payment. Assessments. Judgments in rem upon approval by Clerk.

SEC. 2½. Nothing in this Act shall effect pending litigation. That nothing in this Act shall have the effect of repealing any Public-Local or Private Law. Pending litigation and local laws unaffected.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

S. B. 264 **CHAPTER 181**

AN ACT TO AMEND CHAPTER THREE HUNDRED THIRTY-FIVE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-NINE RELATING TO FISHING LICENSES IN CATAWBA COUNTY.

The General Assembly of North Carolina do enact:

Ch. 335, Public Laws, 1929, amended.

SECTION 1. That Section four of Chapter three hundred thirty-five of the Public Laws of one thousand nine hundred twenty-nine, as amended, be further amended by adding a proviso at the end thereof to read as follows: "*Provided,* that in Catawba County, before any person over the age of sixteen years shall fish in any of the waters in said county, he shall first apply for and obtain the fishing permit or license prescribed in this section."

Fishing license required of persons over 16 years of age, Catawba County.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

S. B. 286 **CHAPTER 182**

AN ACT TO AMEND CHAPTER THREE HUNDRED THIRTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE SO AS TO REQUIRE THE LICENSING OF PLUMBING AND HEATING CONTRACTORS IN BURKE COUNTY.

The General Assembly of North Carolina do enact:

Ch. 338, Public Laws, 1935, amended to provide for regulation of plumbing and heating contractors, Burke County.

SECTION 1. That Chapter three hundred and thirty-eight of the Public Laws of one thousand nine hundred and thirty-five be and the same is hereby amended by adding at the end thereof the following:

"*Provided,* that all requirements and provisions of this Act shall apply to Burke County."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

S. B. 344 **CHAPTER 183**

AN ACT TO AMEND SECTION ONE THOUSAND TWO HUNDRED AND FIFTY-NINE OF THE CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED AND NINETEEN, VOLUME I AS AMENDED, RELATING TO THE FEES OF OFFICERS AND WITNESSES IN CRIMINAL ACTION IN THE SUPERIOR AND RECORDERS COURTS OF JOHNSTON COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. Amend Section one thousand two hundred and fifty-nine of the Consolidated Statutes of one thousand nine hundred and nineteen, Volume one as amended, by striking out the period at the end of said section and inserting in lieu thereof a comma and by adding the following: C. S., 1919, Vol. 1, Section 1259, amended.

"*Provided* that in Johnston County the State's witnesses, clerks, Sheriffs, constables, and justices shall receive full fees when the defendant is convicted and sentenced to serve a term in jail or upon the public roads, or shall be ordered to pay the costs. Payment by County of costs in certain criminal actions, Johnston County.

All payments heretofore made by the Clerk of the Superior Court, or of the Recorders Court in Johnston County in conformity with this provision are hereby ratified and approved." Prior payments of fees validated.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

S. B. 379 **CHAPTER 184**

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED FORTY-THREE OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA AS AMENDED BY CHAPTER THREE HUNDRED EIGHTY-SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO THE TERMS OF THE SUPERIOR COURT IN FRANKLIN COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter three hundred eighty-seven of the Public Laws of one thousand nine hundred thirty-seven be, and the same is hereby amended by adding at the bottom of Section one, a new section to be known and designated as Section one and one half as follows: Ch. 387, Public Laws, 1937, amended to provide for hearing of motions, and trial of civil cases at criminal terms, Franklin County.

"SEC. 1½. At all criminal terms provided for in this chapter all motions and divorce cases may be heard, and, by consent, jury trials in all civil cases may be heard at said criminal terms."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after April tenth, one thousand nine hundred thirty-nine.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 14 CHAPTER 185

AN ACT TO MAKE APPROPRIATIONS FOR THE MAINTENANCE OF THE STATE'S DEPARTMENTS, BUREAUS, INSTITUTIONS, AND AGENCIES, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina do enact:

GENERAL FUND

Biennial appropriations.

SECTION 1. The appropriations out of the general fund of the State for the maintenance of the State's departments, bureaus, institutions and agencies, and for other purposes as enumerated are hereby made for the two fiscal years ending June thirtieth, nineteen hundred forty and June thirtieth, nineteen hundred forty-one, respectively, according to the following schedule:

Legislative.

I. LEGISLATIVE

	1939-40	*1940-41*
1. General Assembly (Session of 1941)	$	$ 176,230

Judicial.

II. JUDICIAL

1. Supreme Court — Justices	$ 56,000	$ 56,000
2. Supreme Court — Departmental Expenses	$ 29,500	$ 29,500
3. Supreme Court — Printing Reports and Reprints	10,000	10,000
4. Superior Courts — Judges	244,185	244,185
5. Superior Courts — Solicitors	105,000	105,000

Executive and administrative.

III. EXECUTIVE AND ADMINISTRATIVE

1. Governor's Office:		
(1) Governor's Office	$ 30,683	$ 30,683
(2) The Budget Bureau	35,357	40,357

		1939-40	1940-41
	(3) Division of Purchase and Contract	30,540	30,690
	(Transfers may be made to and/or from titles III-1-(1), (2), and (3) by the Governor in his discretion).		
2.	Secretary of State	24,886	24,411
3.	State Auditor	53,350	53,750
4.	State Treasurer	48,420	46,720
5.	Attorney General	32,293	33,318
6.	Department of Revenue	561,275	561,275
7.	Department of Public Instruction	88,230	88,230
8.	Historical Commission	21,000	21,000
9.	State Library	11,490	11,490
10.	Library Commission	18,230	18,230
11.	Board of Charities and Public Welfare:		
	(1) Board of Charities and Public Welfare	165,478	165,478
	(2) For use of Eugenics Board	1,750	1,750
12.	State Board of Health	377,294	377,294
13.	Adjutant General	83,421	83,421
14.	Utilities Commission:		
	(1) Utilities Commission	23,251	23,251
	(2) Public Utilities, Bus and Railroad Freight Rates Investigations	15,000	15,000
15.	Insurance Department	64,440	64,440
16.	Department of Labor:		
	(1) Department of Labor	65,117	64,617
	(2) Board of Boiler Rules	1,500	1,500
	(3) Industrial Commission	42,259	42,259
17.	Department of Conservation and Development:		
	(1) Department of Conservation and Development	100,168	100,168
	(2) Commercial Fisheries	21,900	21,900
	(3) Advertising	100,000	100,000
18.	State Board of Elections	9,240	9,240
19.	Local Government Commission	31,339	31,139
20.	Department of Agriculture—Weights and Measures	13,810	13,810
21.	Credit Unions	4,500	4,500
22.	Board of Public Buildings and Grounds:		
	(1) Buildings and Grounds	99,080	99,080
	(2) Governor's Mansion	10,672	10,672
23.	State Board of Alcoholic Control	43,210	43,210
24.	Unemployment Compensation Commission — Employment Agencies	75,000	75,000
25.	State Commission for the Blind	31,044	31,044
26.	Rural Electrification Authority	11,540	11,540

Educational institutions

IV. EDUCATIONAL INSTITUTIONS

		1939-40	*1940-41*
1.	University of North Carolina (Consolidated) (The appropriations under Title IV-1 include the University at Chapel Hill and State College of Agriculture and Engineering and North Carolina College for Women as formerly designated and known).	$ 1,321,081	$ 1,298,513
2.	Experiment Station—State College	5,000	5,000
3.	Cooperative Agricultural Extension—State College	110,000	110,000
4.	East Carolina Teachers College	128,639	123,902
5.	Negro Agricultural and Technical College	49,032	48,662
6.	Western Carolina Teachers College	88,445	78,860
7.	Appalachian State Teachers College	145,770	152,070
8.	Cherokee Indian Normal School	31,898	32,098
9.	Winston-Salem Teachers College (Colored)	44,725	42,806
10.	Elizabeth City State Normal School (Colored)	30,605	30,605
11.	Fayetteville State Normal School (Colored)	32,730	31,030
12.	North Carolina College for Negroes	54,550	54,550
13.	North Carolina School for the Deaf	136,317	135,802
14.	State School for the Blind and the Deaf:		
	(1) State School for the Blind and the Deaf	139,588	140,591
	(2) Blind Student Aid	2,400	2,400

Charitable and correctional institutions.

V. CHARITABLE AND CORRECTIONAL INSTITUTIONS

1.	State Hospital at Raleigh	$ 379,111	$ 386,973
2.	State Hospital at Morganton	403,090	425,406
3.	State Hospital at Goldsboro	278,538	287,407
4.	Caswell Training School	178,346	178,166
5.	North Carolina Orthopedic Hospital	112,587	112,082
6.	North Carolina Sanatorium:		
	(1) North Carolina Sanatorium	201,917	220,437
	(2) Extension Bureau	25,370	25,370
7.	Western North Carolina Sanatorium	135,775	133,775
8.	Stonewall Jackson Training School	126,627	125,424
9.	State Home and Industrial School for Girls	63,613	64,833
10.	Morrison Training School (Colored)	51,872	51,692
11.	Eastern Carolina Training School	48,483	51,499

		1939-40	1940-41
12.	State Industrial Farm Colony for Women	26,396	24,883
13.	North Carolina Soldiers' Home: (1) Confederate Cemetery	350	350
14.	Confederate Women's Home	11,881	11,581
15.	Oxford Orphanage	30,000	30,000
16.	Oxford Colored Orphanage	30,000	26,500
17.	Efland Industrial School for Negro Girls	2,000	2,000
	(The appropriations under Titles V-15, 16 and 17 are to institutions not owned by the State, and are grants in aid).		

VI. STATE AID AND OBLIGATIONS

State aid and obligations.

1.	Board of Charities and Public Welfare:			
	(1) Care Dependent Children		7,500	7,500
	(2) Old Age Assistance	1,500,000		
	Less: Unexpended Appropriation 1937-39	540,000		
	Old Age Assistance — Net		960,000	1,500,000
	(3) Aid to Dependent Children	525,000		
	Less: Unexpended Appropriation 1937-39	160,000		
	Aid to Dependent Children — Net		365,000	525,000
	(4) Aid to County Welfare Administration		150,000	150,000
2.	Board of Health for Orthopedic Clinics		6,000	6,000
3.	Industrial Rehabilitation		10,000	10,000
4.	Fugitives from Justice		2,000	2,000
5.	Indemnity Diseased Slaughtered Livestock		500	500
6.	Landscrip Fund		7,500	7,500
7.	Firemen's Relief		1,750	1,750
8.	Bennett Memorial		50	50
9.	Confederate Museum		200	200
10.	Blind Aid		90,000	90,000

VII. PENSIONS

Pensions.

1.	Confederate Veterans and Widows	$ 114,330	$ 97,350
2.	Olivia B. Grimes	600	600
3.	Annie Burgin Craig	$ 1,200	$ 1,200
4.	Mrs. C. B. Aycock, Sr.	1,200	1,200

Contingency and emergency.

VIII. CONTINGENCY AND EMERGENCY

		1939-40	*1940-41*
Purpose stated.	1. To provide for contingency and emergency expenditures for any purpose authorized by law for which no specific appropriation is made, or for which inadvertently an insufficient appropriation has been made hereunder. Allotments to be made from this appropriation under the provisions of Section thirteen of Chapter one hundred of the Public Laws of one thousand nine hundred twenty-nine, or of Chapter two hundred seven of the Public Laws of one thousand nine hundred twenty-five, or of such other statute as may be applicable	$ 500,000	$ 500,000

Public schools, eight months term.

IX. PUBLIC SCHOOLS

1.	Support of Eight-Months Term Public Schools	$25,941,313	$27,000,000
2.	Vocational Education	325,000	350,000
3.	Adult Education	30,000	30,000
4.	Purchase of Free Textbooks	200,000	200,000

Debt service, General Fund.

X. DEBT SERVICE (GENERAL FUND)

1.	Interest on Bonds	$ 2,448,946	$ 2,364,871
2.	Sinking Fund Installments	271,320	271,320
3.	Redemption of Bonds	2,220,000	2,665,000

Agriculture Fund.

AGRICULTURE FUND

SEC. 2. The appropriations out of the agriculture fund of the State for maintenance of agricultural activities are hereby made for the two fiscal years ending June thirtieth, nineteen hundred and forty and June thirtieth, ninteen hundred and forty-one, respectively, according to the following schedule:

Agriculture.

XI. AGRICULTURE

1.	Department of Agriculture	$ 455,000	$ 450,900
State Fair. 2.	State Fair (for any possible deficit only).		
State College. 3.	State College of Agriculture and Engineering:		
	(1) Experiment Station	26,350	26,350

	1939-40	*1940-41*
(2) Seed Improvement	4,550	4,550

(The appropriations under Title XI-1 may be increased under authorization by the Director of the Budget as realized receipts of the Agriculture Fund may justify. The State Fair under Title XI-2 may be operated within its own receipts in the discretion of the State Board of Agriculture. The appropriations under XI-3-(1) are for the purpose of carrying out the provisions of Chapter one hundred forty-two of the Public Laws of one thousand nine hundred twenty-five, and may be available only after provision is made for the work of the Department of Agriculture and in such reduced amounts as may be necessary under Section two of said chapter. The appropriations under Title XI-3-(2) are for seed improvement work under Chapter three hundred twenty-five of the Public Laws of one thousand nine hundred twenty-nine).

(1) Experiment Station.

(2) Seed Improvement.

HIGHWAY AND PUBLIC WORKS FUND

Highway and Public Works Fund.

SEC. 3. The appropriations out of the highway and public works fund of the State for the expense of collecting revenues, for the service of the highway debt, and for the maintenance of the highway activities, are hereby made for the two fiscal years ending June thirtieth, nineteen hundred forty, and June thirtieth, nineteen hundred forty-one, respectively, according to the following schedule:

XII. HIGHWAY AND PUBLIC WORKS

Highway and Public Works.

1. Highway and Public Works Commission—Administration	$ 175,000	$ 175,000
2. Motor Vehicle Bureau, Patrol and Safety	1,246,684	1,181,684
3. Maintenance of State Highways:		
(1) Regular Maintenance	3,500,000	3,500,000
4. Maintenance and/or Construction County Highways:		
(1) Current Maintenance and Construction	6,500,000	6,500,000

		1939-40	*1940-41*
5.	Betterments State and County Roads:		
	(1) General Betterments	1,500,000	1,500,000
	(2) Retreatments	$ 1,000,000	$ 1,000,000
6.	Construction State and County Highways:		
	(1) Current Construction	3,200,000	3,500,000
7.	Scenic Parkway	225,000	225,000
8.	Maintenance of Highways in Cities and Towns	500,000	500,000
9.	Probation Commission	90,000	90,000
10.	Parole Commission	87,852	87,852
11.	Bus Investigation	20,000	20,000

Debt service, Highway Fund.

XIII. DEBT SERVICE (HIGHWAY FUND)

1.	Interest on Bonds	$ 3,440,614	$ 3,242,083
2.	Sinking Fund Installments	500,000	500,000
3.	Redemption of Bonds	4,575,000	4,665,000
4.	County Loan Repayments	344,200	243,645

Reduction limited.

(Transfers or changes may be made to and/or from Titles XII-3, 4, 5 and 6 under authorization by the Director of the Budget: *Provided*, no item shall be reduced more than fifteen per cent (15%).)

Intent and purpose that highway appropriations not exceed revenue.

(It is the intent and purpose of the General Assembly that the appropriations herein provided shall not exceed the available revenue of the State highway fund, and to this end the Director of the Budget shall cause a careful survey to be made of highway revenues; and if it shall appear at the end of the first year of the biennium that there is not a reasonable assurance of sufficient highway revenue available for the second year of the biennium to provide for the items covered in this Appropriation Bill, the Director of the Budget shall reduce the appropriations of items covered by Titles XII-three, four, five and six, in such amounts as will insure the balancing of the highway budget by the end of the biennium).

Survey ordered.

Reduction in event of deficiency.

Disposition of surplus.

(*Provided*, in the event the receipts and/or increments to the highway fund shall be more than the appropriations herein made, such excess may be made available by the Director of the Budget for expenditures either in the current or next succeeding year under Titles XII-four and five).

Preference to secondary roads.

(*Provided further*, that preference shall be given what is commonly known as secondary roads in the expenditure of any such increased appropriations).

(*Provided, however,* that it is the intent and purpose of the General Assembly that the State Highway and Public Works Commission shall give preference in the expenditure of the items of construction and State and county betterments for the extension and improvement of the public roads and bridge facilities of those sections of the State that have not heretofore been accorded equal opportunities in the development of the highway system, to the end that all sections of the State may, insofar as possible, be provided with benefits of an improved highway system).

Preference declared in favor of sections not enjoying equal opportunity in development of highway system.

(The appropriations to the Motor Vehicle Bureau, Highway Patrol, and Drivers' License Law include thirty-two thousand dollars ($32,000) for each year, to be transferred or paid to the Department of Revenue for general administration and supervision).

Special appropriations.

(The appropriations made herein to Titles XII-three and four, include ten thousand dollars ($10,000) for each year, to be transferred or paid to the State Hospital at Raleigh, and include seven thousand five hundred dollars ($7,500) for each year, to be transferred or paid to the State Hospital at Goldsboro for care, custody, and treatment of the criminally insane).

Special appropriation for care of insane.

SEC. 4. The Revenue Act of this General Assembly has placed a tax of three per cent (3%) upon the retail sales of gasoline, together with other commodities, thereby raising approximately the amount, arbitrarily at one time transferred from the highway fund to the general fund and the same shall be taken and considered to be in full compliance with the policy set forth under Section four of the Appropriation Act of one thousand nine hundred and thirty-three.

Diversion of highway funds.

SEC. 5. Fees or compensation to be paid to members of boards or commissions for attendance out of or under the appropriations made in Sections one, two, and three of this Act shall be fixed at rates per diem as shown in the following schedule:

Per diem rates and travel expenses for certain board and commission members.

Advisory Budget Commission, seven dollars ($7.00) and necessary travel expenses.

State School Commission, seven dollars ($7.00) and necessary travel expenses.

Highway and Public Works Commission, ten dollars ($10.00) and necessary travel expenses.

State Board of Alcoholic Control, seven dollars ($7.00) and necessary travel expenses.

State Board of Agriculture, seven dollars ($7.00) and necessary travel expenses.

All other boards and commissions, including those governing the institutions, but not including such as its members are now serving without compensation, three dollars and fifty cents ($3.50) per day and five cents (5c) per mile of travel going and returning and necessary travel expenses.

Appropriations herein made in lieu of appropriations under Revenue Act.

SEC. 5½. The appropriations provided in this Act shall be in lieu of all appropriations or allowances for the Alcoholic Beverage Control Board, the Department of Revenue, or any other board, bureau or agency of the State by House Bill Number thirteen, entitled "An Act to Raise Revenue," except the appropriation to the Department of Revenue made by Section seven hundred sixteen of the Revenue Act of one thousand nine hundred thirty-nine for administration of the Intangible Personal Property Tax Schedule.

Exception.

General provisions.

GENERAL PROVISIONS

Restrictions on allowances for travel expenses.

SEC. 6. Allowances out of or under the appropriations made in Sections one, two, and three of this Act for travel expenses cover only ordinary field travel and occasional travel in connection with the work of the department, institution, or agency, and shall be so limited, unless provision is made through a travel authorization by the Director of the Budget for convention, conference, or out of State travel. Allowances shall not be made in excess of the following:

Schedule.

For subsistence—hotel and meals—four dollars ($4.00) per day; for convention, conference, or out of State, when authorized, six dollars and fifty cents ($6.50) per day; for transportation, using personally owned automobiles, five cents (5c) per mile of travel.

Insurance and bonds.

SEC. 7. All insurance and all official, fidelity, and surety bonds authorized for the several departments, institutions, and agencies shall be effected and placed by the Insurance Department, and the cost of such placements shall be liquidated by the department, institution, or agency involved upon bills rendered to and approved by the Insurance Commissioner.

Special provisions.

SPECIAL PROVISIONS

$2,500 annually for cost of audits made by State Auditor of State Highway and Public Works Commission.

SEC. 8. The cost of all audits made by the State Auditor of the books and accounts of the State Highway and Public Works Commission under Section twenty-four of Chapter two of the Public Laws of one thousand nine hundred and twenty-one, which cost is hereby fixed at two thousand five hundred dollars ($2,500) for each year, shall be paid out of the funds

of the State Highway and Public Works Commission. Such audits shall be made by the State Auditor and members of his staff.

Gasoline and oil inspection fund covered into General Fund.

SEC. 9. All receipts under Article XIV of Chapter eighty-four of the Consolidated Statutes shall be covered into the State Treasury, as now provided by law, and kept as a distinct fund to be styled the "Gasoline and Oil Inspection Fund," and the amounts remaining in such fund at June thirtieth and December thirty-first of each year shall be transferred to the general fund.

Miscellaneous expenses.

SEC. 10. All expenses of every kind, and including a reasonable charge by the Board of Public Buildings and Grounds for offices occupancy and telephone service, concerning bank examinations by the Banking Department, shall be paid out of fees collected under Section two hundred twenty-three (f) of the Consolidated Statutes, Volume III.

Agricultural extension work.

SEC. 11. The appropriations for Cooperative Agricultural Extension work under Title IV-three, Section one, of this Act are made to meet the State's share of funds provided by the Smith-Lever Act of Congress and to further promote agricultural work.

Disposition of appropriation to schools for deaf and blind.

SEC. 12. The appropriations made to the North Carolina School for the Deaf under Title IV-thirteen and to the State School for the Blind and Deaf under Title IV-fourteen-(1), Section one, of this Act, include provisions for the cost of clothing and transportation for indigent pupils. The institutions shall be reimbursed for these items by the counties liable therefor under the provisions of Chapter eighty-six of the Public Laws of one thousand nine hundred and twenty-seven.

Oxford Colored Orphanage.

SEC. 13. The appropriations made to the Oxford Colored Orphanage under Title V-sixteen, Section one, of this Act shall be available only if and when the expenditures shall be recommended by the trustees of the institution appointed by the Governor of the State, and the expenditures shall be under the supervision of said trustees.

Pensions to Confederate veterans and widows.

Semi-annual installments.

SEC. 14. The appropriations for Pensions to Confederate Veterans and Widows under Title VII-one, Section one, of this Act shall be apportioned by the State Auditor. The apportionment shall be made by dividing the appropriation for each year into two estimated parts, one to pay the pensions due on the fifteenth day of December, and the second to pay the pensions due on the fifteenth of June; each part shall be apportioned among the Confederate veterans and widows of Confederate veterans listed on the pension rolls according to their various classes at each respective date. Colored laborers and servants

Apportionment.

Colored laborers.

now drawing pensions, as well as any other who may hereafter become entitled to such pensions, shall be paid out of the same appropriation and included in like manner in the apportionment. The amounts of all pension warrants returned unaccomplished because of the death of the pensioner or otherwise, or that there is no one entitled to receive the same, shall lapse and revert to the general fund and become applicable to other appropriations for the biennium.

Lapsed pensions.

Report by State Auditor to Governor on pension requirements.

SEC. 15. The State Auditor shall, thirty days before the date for the issuance of pension warrants to Confederate veterans and widows, submit to the Governor a statement of the number, or, if the Governor requires it, a full list of the pensioners, of each class entitled to share in the pension appropriation, together with a statement of the amount appropriated and available for payment of such pensions. The Governor shall, within twenty days, certify to the State Auditor and to the State Treasurer the amounts which shall be paid to pensioners in each class, and no pension warrants not in accord with the Governor's certification shall be issued by the State Auditor or paid by the State Treasurer.

Approval by Governor.

Board of Charities and Public Welfare for Old Age Assistance and Aid to Dependent Children.

SEC. 16. The appropriations made to the Board of Charities and Public Welfare for Old Age Assistance under Title VI (1)-(2) and for Aid to Dependent Children under Title VI (1)-(3) of Section one of this Act are declared to be for such sum which, added to the unexpended balances remaining in the appropriations for the said purposes for the biennium of one thousand nine hundred thirty-seven—thirty-nine, at the end of said biennium, shall be equal to the sum of one million five hundred thousand dollars, for each year of the biennium, for Old Age Assistance, and five hundred twenty-five thousand dollars, for each year of the biennium, for Aid to Dependent Children.

Department of Labor.

SEC. 17. The appropriations made for the Department of Labor under Title III-sixteen-(1) is to provide for the regular work of the Department of Labor and for any additional duties that may be added through any Act passed at this General Assembly regulating wages and hours of employment.

EFFECTIVE

Budget Act and other laws retained.

SEC. 18. The Provisions of the Executive Budget Act, Chapter one hundred of the Public Laws of one thousand nine hundred and twenty-nine, the provisions of the Personnel Act, Chapter two hundred seventy-seven, Public Laws of one thousand nine hundred and thirty-one, and Chapter forty-six of the Public Laws of one thousand nine hundred and thirty-three, are re-enacted and shall remain in full force and effect.

The Director of the Budget shall reduce all appropriations provided for in this Act, when necessary to prevent a deficit for the fiscal period for which said appropriation is made; and, in so doing, he shall give preference to the charitable and eleemosynary institutions of the State.

Reductions by Director of Budget to prevent deficiency.

Preferences.

SEC. 19. If any section or provision of this Act be declared unconstitutional or invalid by the courts, the same shall not affect the validity of this Act as a whole or any part other than the part so decided to be unconstitutional or invalid.

Partial invalidity clause.

SEC. 20. This Act shall be in force and effect after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 29 CHAPTER 186

AN ACT TO PROVIDE EDUCATIONAL FACILITIES FOR THE PATIENTS AT THE NORTH CAROLINA ORTHOPEDIC HOSPITAL AT GASTONIA, NORTH CAROLINA.

The General Assembly of North Carolina do enact:

SECTION 1. There is hereby created and established in the North Carolina Orthopedic Hospital at Gastonia a school for patients who are between the ages of six and twenty-one years which shall be operated for the period of twelve months in each year, or such period during each year as such board of trustees may deem advisable, under the direction and supervision of the County Board of Education of Gaston County.

Establishment of school for patients at N. C. Orthopedic Hospital at Gastonia.

SEC. 2. A principal and the necessary number of teachers in said school shall be allotted to said school by the State School Commission and shall be elected by the Trustees of the North Carolina Orthopedic Hospital, upon the recommendation of the County Superintendent of Public Instruction of Gaston County, which teachers shall hold certificates according to standards prescribed by the State Board of Education for teachers in the public schools of the State.

Allotment of principal and teachers.

Election by trustees.

SEC. 3. The State School Commission is hereby authorized to purchase such equipment and supplies as it deems necessary to carry out the purposes of this Act.

Purchase of equipment and supplies by State School Commission.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 81 CHAPTER 187

AN ACT TO AMEND CONSOLIDATED STATUTES FIVE THOUSAND ONE HUNDRED SIXTY-EIGHT (Q), VOLUME THREE (ONE THOUSAND NINE HUNDRED TWENTY-FOUR), AND TO REPEAL CONSOLIDATED STATUTES FIVE THOUSAND ONE HUNDRED SIXTY-EIGHT (S) AND FIVE THOUSAND ONE HUNDRED SIXTY-EIGHT (T), RELATIVE TO THE PAYMENT OF CONFEDERATE PENSIONS.

The General Assembly of North Carolina do enact:

C. S., 1924, Vol. 3, section 5168 (Q), amended.

Payment of Confederate pensions in monthly installments.

Transmission of warrants to Clerk Superior Court.

Delivery of warrants by Clerk Superior Court.

SECTION 1. That Consolidated Statutes five thousand one hundred sixty-eight (Q), Volume three (one thousand nine hundred twenty-four), be, and the same is hereby repealed and the following substituted in lieu thereof: "Pensions are payable monthly in advance, and the State Auditor shall divide into twelve equal installments the yearly amount due each pensioner and shall transmit to the Clerks of the Superior Court of the various counties warrants for the same on or before the first day of each calendar month, the installment then due. 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, to deliver or mail forthwith to each pensioner in his county his warrant, and to post in the courthouse a list of the pensioners to whom he has mailed or delivered warrants."

Payment of $100.00 to defray funeral expenses in event of death of pensioner.

Warrant payable to personal representative or next of kin.

SEC. 2. That whenever in any county of this State a Confederate pensioner on the pension roll shall die, and such fact has been determined by the State Auditor, the State Auditor shall forward to the Clerk of the Superior Court of the county in which such pensioner resided a State warrant in the amount of one hundred dollars ($100.00), to be paid by the Clerk of the Superior Court of the county in which such pensioner resided to the personal representative, or next of kin of such deceased pensioner to be applied toward defraying the funeral expenses of such deceased pensioner.

C. S., 1924, Vol. 3, section 5168 (s), as to payments after death of pensioner, repealed.

SEC. 3. That Section five thousand one hundred sixty-eight (s) of Volume three, Consolidated Statutes of one thousand nine hundred twenty-four, as amended by Chapter ninety-six of the Public Laws of one thousand nine hundred twenty-seven, be, and the same is hereby repealed.

SEC. 4. That Section five thousand one hundred sixty-eight (t) of Volume three, Consolidated Statutes of one thousand nine hundred twenty-four, be, and the same is hereby repealed. C. S., 1924, Vol. 3, section 5168 (t), as to continuation of pensions to widows, repealed.

SEC. 5. All laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 6. This Act shall be in full force and effect from and after July first, one thousand nine hundred thirty-nine.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 102 **CHAPTER 188**

AN ACT TO LICENSE AND REGULATE THE OPERATION OF ROAD HOUSES, CABIN CAMPS, TOURIST CAMPS, PUBLIC DANCE HALLS AND TOURIST HOMES IN THIS STATE.

The General Assembly of North Carolina do enact:

SECTION 1. Every person, firm or corporation engaged in the business of operating outside the corporate limits of any city or town in this State a tourist camp, cabin camp, tourist home, road house, public dance hall, or any other similar establishment by whatever name called, where travelers, transient guests, or other persons are or may be lodged for pay or compensation, shall, before engaging in such business, apply for and obtain from the Board of County Commissioners of the county in which such business is to be carried on a license for the privilege of engaging in such business and shall pay for such license an annual tax in the amount of two dollars ($2.00). License required for operation of tourist camps, road houses, etc. outside of corporate limits. Amount of license tax.

SEC. 2. This Act shall not apply to hotels and inns within the definition of Consolidated Statutes two thousand two hundred eighty-three (a), Volume three (one thousand nine hundred twenty-four), nor to persons who incidental to their principal business or occupation accept from time to time seasonal boarders in their private residences: *Provided, however,* this shall not be construed to exempt from the provisions of this Act residences maintained in connection with a store or other establishment operated for the sale of articles of merchandise. Exemptions. Exception.

SEC. 3. Every person, firm or corporation making application for license to engage in the business described in Section one of this Act shall make application to the Board of County Commissioners in the county in which such business is to be engaged in and the application shall contain: Application to County Commissioners for license.

Contents of application.

(a) The name and residence of the applicant and the length of the residence within the State of North Carolina.

(b) The address and place for which such license is desired.

(c) The name of the owner of the premises upon which the business licensed is to be carried on.

(d) That the applicant intends to carry on the business authorized by the license for himself or under his immediate supervision and direction.

(e) That such applicant is of good moral character and has never been convicted of a felony involving moral turpitude, or adjudged guilty of violating either the State or Federal prohibition laws within the last two years prior to the filing of the application.

Verification of application.

SEC. 4. The application prescribed in Section three of this Act must be verified by the affidavit of the petitioner made before a notary public or other person duly authorized by law to

Disqualifications for license.

administer oaths. If it appears from the statement of the applicant, or otherwise, that such applicant has been convicted of a felony involving moral turpitude or adjudged guilty of violating either State or Federal prohibition laws within the last two years prior to the filing of the application, or within two

Issuance of license to person disqualified in discretion of County Commissioners.

years from the completion of sentence thereon, the license herein provided for shall not be granted, unless it shall appear to the satisfaction of the Board of County Commissioners that the licensed premises will be operated in a lawful manner; in which case they may, in their discretion, issue such license. Before any such license shall be issued, the governing body of the county shall be satisfied that the statements required by Section three are true. Every establishment named in this Act

Inspection of establishments by State and county health officers.

shall be subject to inspection by the State Board of Health and the county health authorities in the county in which such business is carried on.

List of employees furnished to Sheriff upon request.

SEC. 5. At any time upon request of the Sheriff of the county in which such business is carried on, the operator of every establishment named in this Act shall furnish said Sheriff with a list of all employees who are employed by him in connection

Notice of change of ownership or management to Clerk of County Board.

with said business; and, in every instance when such an operator goes out of business or there is a change of ownership or management thereof, such operator shall immediately file with the clerk of the Board of County Commissioners of the county

Contents.

in which such business is carried on a notice to this effect, giving the name and address of the purchaser or the new owner or manager thereof.

Registration of guests.

SEC. 6. Any person or persons occupying any room or rooms in a tourist camp, cabin camp, tourist home, road house, or any

other similar establishment by whatever name called, shall register or cause himself to be registered before occupying the same, and if traveling by motor vehicle shall register at the same time the automobile license tag of such motor vehicle and the manufacturer's name of such motor vehicle, and no person shall write or cause to be written, or, if in charge of a register, knowingly permit to be written in any register in any of the establishments herein named by other or a different name or designation than the true name or names in ordinary use of the person registering or causing himself to be registered therein, or the true name of the manufacturer of such motor vehicle or the correct license plate and number thereof. Every person to whom a license is issued under the provisions of this Act shall provide a permanent register for the purposes set forth herein.

Registration of motor vehicles used by guests.

False registration prohibited.

Permanent register required.

SEC. 7. Any man or woman found occupying the same room in any establishment within the meaning of this Act for any immoral purpose, or any man or woman falsely registering as or otherwise representing themselves to be husband and wife in any such establishment shall, upon conviction thereof, be guilty of a misdemeanor and shall be fined or imprisoned in the discretion of the court.

False registration and use for immoral purposes made misdemeanor.

SEC. 8. Any person being the operator or keeper of any establishment within the meaning of this Act who shall knowingly permit any man or woman to occupy any room in any establishment within the meaning of this Act for any immoral purposes, or who shall knowingly permit any man or woman to falsely register as husband and wife in such an establishment, shall, upon conviction thereof, be guilty of a misdemeanor and shall be fined or imprisoned in the discretion of the court.

Operator knowingly permitting violations, guilty of misdemeanor.

SEC. 9. Any person who shall knowingly persuade, induce or entice, or cause to be persuaded, induced or enticed, any woman or girl to enter any establishment within the meaning of this Act for the purpose of prostitution or debauchery, or for any other immoral purpose, shall be deemed guilty of a misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.

Inducing female to enter tourist camps, etc. for immoral purpose made misdemeanor.

SEC. 10. In addition to the penalty herein prescribed for a violation of this Act, the court, before whom such person is tried and where a conviction is had, shall have the power to revoke the license to operate the establishment or establishments licensed under this Act, and whenever any person, firm or corporation has been so convicted, the court, if it shall appear that said premises were being operated in violation of the law with the knowledge, consent or approval of the owner thereof, shall have the authority to prohibit the issuance of any similar

Revocation of operator's license.

Injunction against issuance of further license.

license for said premises to any person for a term of six months after the revocation of said license.

Tax imposed declared additional.

SEC. 11. The tax imposed by this Act shall be in addition to all other licenses and taxes levied by law upon the business taxed hereunder.

Time of payment of licenses.

SEC. 12. Licenses issued under this Act shall be due and payable in advance annually on or before the first day of June of each year, or at the date of engaging in such business, and

Expiration date.

shall expire on the thirty-first day of May of each year, and shall be for the full amount of the tax prescribed, regardless of the date such business is begun. Upon the expiration of the

Continued operation after expiration of license prohibited.

license herein required, it shall be unlawful for any person, firm or corporation to continue such business until a new license is applied for and obtained for the privilege of engaging in such business, as in this Act required.

Operation without license made misdemeanor.

SEC. 13. It shall be unlawful for any person, firm or corporation to engage in such business without first obtaining a license therefor. Any person violating the provisions of this section shall be guilty of a misdemeanor and upon conviction thereof shall be fined or imprisoned in the discretion of the court.

Violations of Act made misdemeanor.

SEC. 14. Unless another penalty is in this Act or by the laws of this State provided, any person violating any of the provisions of this Act shall, upon conviction thereof, be guilty of a misdemeanor and shall be fined or imprisoned in the discretion of the court.

Application of Act to municipalities.

SEC. 15. The governing body of any city or town shall have the authority to make any or all of the provisions of this Act applicable to any business as defined herein which may be located in the limits of any such city or town.

Act supplemental to Ch. 127, Public-Local Laws, 1937, regulating tourist camps, etc., Guilford County.

SEC. 16. The provisions of this Act shall be supplemental to and not in derogation of any of the provisions of Chapter one hundred twenty-seven of the Public-Local Laws of one thousand nine hundred thirty-seven relating to the licensing and regulating of tourist camps, dance halls, road houses and similar businesses in Guilford County.

Partial invalidity clause.

SEC. 17. If any clause, sentence, paragraph or part of this Act shall for any reason be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, or part thereof directly involved in the controversy in which such judgment shall have been rendered. No caption of any section or set of sections shall in any way affect the interpretation of this Act or any part thereof.

SEC. 18. This Act shall not apply to the counties of Bladen, Caswell, Hyde, Moore and Graham. Counties exempt.

SEC. 19. All laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 20. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 225 **CHAPTER 189**

AN ACT TO REGULATE THE SALE OF NURSERY STOCK WHERE GUARANTEES ARE MADE.

The General Assembly of North Carolina do enact:

SECTION 1. Every person, firm or corporation, who shall sell, barter or exchange any nursery stock in the State of North Carolina, who shall promise or agree, either in the written contract of sale, orally or otherwise, that such person, firm or corporation, selling, exchanging or bartering such nursery stock, will spray, prune or otherwise look after or service such nursery stock for any period of time after the said sale is made, shall before engaging in such business in the State of North Carolina post with the Commissioner of Agriculture a good and sufficient bond in the sum of one thousand dollars ($1,000.00) payable to the State of North Carolina, and conditioned that such person, firm or corporation, shall well and truly comply with the contract of sale containing such promise and agreements either written or oral. Regulation of sale of nursery stock upon agreements for servicing, etc. Bond to be posted with Commissioner of Agriculture. Amount. Bond conditioned on compliance with agreements.

SEC. 2. This regulation shall apply to any agent or employee of any person, firm or corporation engaging in such business in the State of North Carolina, but one bond given by the principal shall be sufficient for all agents representing such principal. Application of Act.

SEC. 3. All laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 373 CHAPTER 190

AN ACT TO AMEND CHAPTER FOUR HUNDRED FORTY-ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE RELATIVE TO CERTAIN SPECIAL TAXES IN DUPLIN, DARE, AVERY AND OTHER COUNTIES, AND MAKING SAME APPLICABLE TO ORANGE COUNTY.

The General Assembly of North Carolina do enact:

Ch. 441, Public Laws, 1931, authorizing special tax levy for certain purposes, amended to apply to Orange County.

SECTION 1. That Section one of Chapter four hundred forty-one of the Public Laws of one thousand nine hundred thirty-one be, and the same is hereby, amended by inserting the word "Orange" just before the word "Counties" in line seven, to the end that all powers and authorities vested by said section may hereafter apply to Orange County equally with the counties enumerated in said original Act.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

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

In the General Assembly read three times and ratified this the 28th day of March, 1939.

H. B. 468 CHAPTER 191

AN ACT TO AMEND SECTION ONE THOUSAND EIGHT HUNDRED NINETY OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA, VOLUME ONE, ONE THOUSAND NINE HUNDRED NINETEEN, AS AMENDED BY CHAPTER ONE HUNDRED AND SIX, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-THREE, RELATING TO THE LICENSING OF BOATS USING PURSE SEINES OR SHIRRED NETS, AND TO FIX THE LICENSE FEE FOR NON-RESIDENT EMPLOYEES ON SUCH BOATS OR VESSELS.

The General Assembly of North Carolina do enact:

C. S., 1919, Vol. 1, section 1890, amended.

SECTION 1. That Section one thousand eight hundred ninety of the Consolidated Statutes of North Carolina, Volume one, one thousand nine hundred nineteen, as amended by Section two of Chapter one hundred and six of the Public Laws of one thousand nine hundred thirty-three be, and the same is hereby, repealed and the following substituted in lieu thereof:

License fee for boats using purse seines or shirred nets.

"1890(a) All boats or vessels of any kind used in operating purse seines or shirred nets shall pay a license fee of one dollar

and twenty-five cents ($1.25) per ton on gross tonnage, custom-house measurement, which shall be independent of and separate from the seine or net tax on the seines or nets used on said boats or vessels. This license fee shall be for one year from January first of each year and shall not be issued for any period of less than one year.

Duration of license.

"(b) Any boat or vessel operating purse seines or shirred nets without first having complied with the provisions of this section shall be seized, forfeited, and advertised for twenty days at the courthouse door and two other public places in the county where seized, and sold at some public place designated in the advertisement, and the proceeds of such sale, less the cost of the proceedings, shall be paid into the school fund of the county where seized. Any person, firm, or corporation operating such boat or vessel in violation of this Act shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.

Seizure of boat authorized upon failure to pay license fee.

Advertisement and sale.

Proceeds of sale paid into school funds.

Violations of Act made misdemeanor.

"(c) Every operator of all boats or vessels of any kind used in operating purse seines or shirred nets on the public waters of this State shall, in addition to the fee prescribed in Subsection (a) of this section, pay a license fee for each non-resident person or persons employed by him on such boat or vessel in the amount of five dollars ($5.00) for each such person. This license fee shall be for one year from January first of each year and shall not be issued for any period of less than one year. Any person violating the provisions of this section shall be guilty of a misdemeanor, and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.

License fee for non-resident employees on boat.

Duration of license.

Violations made misdemeanor.

"(d) All operators of boats or vessels of any kind used in operating purse seines or shirred nets shall apply for and obtain a license for each such purse seine or shirred net, and shall pay for such license a tax in the amount of five dollars ($5.00): *Provided*, that the tax herein levied on purse seines or shirred nets shall be in lieu of all other taxes levied by law against such seines or nets.

License tax on each purse seine or shirred net used.

In lieu of other taxes thereon.

"(e) Nothing in this Act shall apply to boats fishing for edible fish."

Exemption.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 513 CHAPTER 192

AN ACT TO AUTHORIZE THE GOVERNOR TO APPOINT A COMMISSION TO CONSIDER THE RELIEF OF SWAIN COUNTY BY REASON OF ITS LOSSES BY THE ESTABLISHMENT OF THE GREAT SMOKY MOUNTAINS NATIONAL PARK. (APPLIES ALSO TO HAYWOOD COUNTY)

Preamble: Condemnation and purchase of lands in Haywood and Swain Counties for Great Smoky Mountains National Park.

WHEREAS, the State of North Carolina exercising its right of eminent domain did, in the name of North Carolina Park Commission, condemn and purchase in the Counties of Swain and Haywood an area of one hundred sixty-nine thousand, seven hundred eleven acres, taking title in the name of North Carolina Park Commission, and did then execute deed or deeds to the United States for said lands in fee simple; and

Outstanding obligations of counties at time of purchase.

WHEREAS, at the time said lands were condemned and purchased as aforesaid there were outstanding obligations of the Counties of Swain and Haywood; and

Collateral of bond holders affected.

WHEREAS, the condemnation, purchase and transfer of said lands seriously affects the collateral of the bond holders of the said Counties of Swain and Haywood; and

Institution of action by bond holders to require tax levies for liquidation of judgments.

WHEREAS, the holders of bonds issued by the Counties of Swain and Haywood are now instituting actions for the purpose of obtaining writs of mandamus to require the County Board of Commissioners to make levies of taxes for the purpose of liquidating judgments heretofore obtained, thus creating an intolerable and oppressive situation in said counties; and

U. S. Congress memoralized to make appropriation to Swain and Haywood Counties for losses in taxation.

WHEREAS, the General Assembly of the State of North Carolina has memorialized the Congress of the United States, by Joint Resolution Number twenty-seven of the General Assembly for the year one thousand nine hundred thirty-three, to make an appropriation for the relief of Swain and Haywood Counties in consideration of its losses in taxation by reason of the establishment of the Great Smoky Mountains National Park; *Now, therefore,*

The General Assembly of North Carolina do enact:

Appointment of Commission to present matter to U. S. Congress.

SECTION 1. That a commission of five members shall be appointed by the Governor of North Carolina for the purpose of presenting to the Congress of the United States the subject matter contained in Resolution Number twenty-seven of the Public Laws of one thousand nine hundred thirty-three, memorializing the Congress of the United States to make an appropriation for the relief of Swain and Haywood Counties. The said commission shall present this subject matter to the Congress of the United States, and report further touching any legal or equitable rights the said Counties of Swain and Haywood may have on account of any losses sustained by the condemnation of the territory in

Presentation and report.

the Counties of Swain and Haywood by the North Carolina Park Commission and conveyed by the said North Carolina Park Commission to the Federal Government of the United States.

Compensation of members of Commission.

SEC. 2. That the members of said commission shall receive as compensation for their services, other than actual expenses, a per diem of five dollars, and there is hereby appropriated a sum not to exceed one thousand dollars for the purpose of carrying out the provisions of this Act.

Appropriation.

Reports of Commission.

SEC. 3. That said commission shall fully report their acts to the General Assembly of one thousand nine hundred forty-one, and may report their findings of fact to the Congress of the United States for their consideration in the premises.

Ch. 419, Public Laws, 1933, repealed.

SEC. 4. That Chapter four hundred nineteen of the Public Laws of one thousand nine hundred thirty-three is hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 524 CHAPTER 193

AN ACT TO REPEAL CHAPTER TWO HUNDRED AND SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE, RELATING TO THE CLASSIFICATION OF EGGS AND THE REGULATION OF THE SALE THEREOF.

The General Assembly of North Carolina do enact:

Ch. 206, Public Laws, 1931, repealed.

Regulation of classification and sale of eggs.

SECTION 1. That Chapter two hundred and six of the Public Laws of the one thousand nine hundred thirty-one be, and the same is hereby repealed, and the regulation of marketing and branding eggs shall be only as authorized under the provisions of Chapter eighty-four, Article IX of the Consolidated Statutes, Volume two, one thousand nine hundred nineteen, as amended by Chapter one hundred forty of the Public Laws of one thousand nine hundred twenty-one.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 530 CHAPTER 194

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED AND FORTY-THREE OF VOLUME THREE OF THE CONSOLIDATED STATUTES RELATING TO TERMS OF SUPERIOR COURT IN LEE COUNTY.

The General Assembly of North Carolina do enact:

C. S., Vol. 3, section 1443, amended.

SECTION 1. That Section one thousand four hundred and forty-three of Volume three of the Consolidated Statutes be and the same is hereby amended by striking out all of the paragraph relating to Lee County under the sub-division "Fourth District" and all amendments thereto and inserting in lieu thereof the following:

Terms of Superior Court, Lee County.

"Lee. Fifth Monday before the first Monday in March, to continue for two weeks for the trial of civil cases only; *provided*, that for this term the Governor shall assign a judge to hold the same from among the regular, special or emergency judges; third Monday after the first Monday in March to continue for two weeks; seventh Monday before the first Monday in September; first Monday after the first Monday in September, to continue for two weeks, for the trial of civil cases; *provided*, that for the last week of said term the Governor shall assign a judge to hold the same from among the regular, special or emergency judges; eighth Monday after the first Monday in September."

Assignment of judge.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 592 CHAPTER 195

AN ACT REQUIRING SHERIFFS, POLICE DEPARTMENTS AND CONSTABLES TO KEEP A REGISTER OF CONFISCATED, SEIZED OR FOUND ARTICLES, AND AUTHORIZING THE SALE AND DISPOSITION THEREOF.

The General Assembly of North Carolina do enact:

Sheriffs, police departments and constables to maintain register of personal property confiscated, seized or found.

SECTION 1. Each Sheriff, police department and constable in this State is hereby required to keep and maintain a book or register, and it shall be the duty of each Sheriff, police department and constable to keep a record therein of all articles of personal property which may be seized or confiscated by him or it, or of which he or it may have become possessed in any way in the dis-

charge of his duty. Said Sheriffs, police departments and constables shall cause to be kept in said registers a description of such property, the name of the person from whom it was seized, if such name be known, the date and place of its seizure, and, where the article was not taken from the person of a suspect or prisoner, a brief recital of the place and circumstances concerning the possession thereof by such Sheriff, police department, or constable. Such Sheriff, police department and constable shall also keep in said register appropriate entries showing the manner, date, and to whom said articles are disposed of or delivered, and, if sold as hereinafter provided, a record showing the disposition of the proceeds arising from such sale.

Contents of register.

Record of disposition of property.

SEC. 2. Unless otherwise provided herein, whenever such articles in the possession of any Sheriff, police department or constable have remained unclaimed by the person who may be entitled thereto for a period of one hundred eighty (180) days after such seizure, confiscation, or receipt thereof in any other manner, by such Sheriff, police department or constable, the said Sheriff, police department or constable in whose possession said articles are may cause to be published one time in some newspaper published in said county a notice to the effect that such articles are in the custody of such officer or department, and requiring all persons who may have or claim any interest therein to make and establish such claim or interest not later than thirty (30) days from the date of the publication of such notice or in default thereof, such articles will be sold and disposed of. Such notice shall contain a brief description of the said articles and such other information as the said officer or department may consider necessary or advisable to reasonably inform the public as to the kind and nature of the article about which the notice relates.

Publication of notice of unclaimed property.

Contents of notice.

SEC. 3. If said articles shall remain unclaimed or satisfactory evidence of ownership thereof not be presented to the Sheriff, police department or constable, as the case may be, for a period of thirty (30) days after the publication of the notice provided for in the next preceding section, then the said Sheriff, police department, or constable in whose custody such articles may be, is hereby authorized and empowered to sell the same at public auction for cash to the highest bidder, either at the courthouse door of the county, or at the police headquarters of the municipality in which the said articles of property are located, and at such sale to deliver the same to the purchaser or purchasers thereof.

Sale at public auction 30 days after publication of notice authorized.

SEC. 4. Before any sale of said property is made under the provisions of this Act, however, the said sheriff, police department, or constable making the same shall first advertise the sale by publishing a notice thereof in some newspaper published in the said county at least one time not less than ten days prior to the date of sale, and by posting a notice of the sale at the courthouse door and at three other public places in the said county. Said notice shall specify the time and place of sale, and contain a

Notice of sale.

Publication.

Posting of notice.

Contents.

sufficient description of the articles of property to be sold. It shall not be required that the sale lay open for increase bids or objections, but it may be deemed closed when the purchaser at the sale pays the amount of the accepted bid.

Disbursement of proceeds of sale.

SEC. 5. From the proceeds realized from the sale of said property, the Sheriff, police department, constable or other officer making the same shall first pay the costs and expenses of the sale, and all other necessary expenses incident to a compliance with this Act, and any balance then remaining from the proceeds of said sale shall be paid within thirty days after the sale to the Treasurer of the County Board of Education of the county in which such sale is made, for the benefit of the fund for maintaining the free public schools of such county.

Non-liability of officers.

SEC. 6. No Sheriff, police department, constable, or other officer, shall be liable for any damages or claims on account of any such sale or disposition of such property, as provided in this Act.

Construction of Act.

SEC. 7. This Act shall not be construed to apply to the seizure and disposition of whiskey distilleries, game birds, and other property or articles which have been or may be seized, where the existing law now provides the method, manner, and extent of the disposition of such articles or of the proceeds derived from the sale thereof.

SEC. 8. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 9. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 599 CHAPTER 196

AN ACT TO AMEND SECTION SIX THOUSAND AND EIGHTEEN OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA SO AS TO CHANGE THE DATE OF PRIMARY ELECTIONS TO THE LAST SATURDAY IN MAY.

The General Assembly of North Carolina do enact:

C. S. 6018, amended, to change date of primary elections to last Saturday in May.

SECTION 1. That Section six thousand and eighteen of the Consolidated Statutes of North Carolina be amended by striking out in the first sentence thereof the words "On the first Saturday in June", and substituting in lieu thereof the words "On the last Saturday in May."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 643 CHAPTER 197

AN ACT CONCERNING TRUSTS AND TRUSTEES AND THE ADMINISTRATION OF TRUSTS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO.

The General Assembly of North Carolina do enact:

SECTION 1. Definitions. As used in this Act unless the context or subject matter otherwise requires: Definitions.

1. "Person" means an individual, a corporation, a partnership, an association, a joint stock company, a business trust, an unincorporated organization, or two or more persons having a joint or common interest. "Person."

2. "Trustee" includes trustees, a corporate as well as a natural person and a successor or substitute trustee. "Trustee."

3. "Relative" means a spouse, ancestor, descendant, brother or sister. "Relative."

4. "Affiliate" means any person directly or indirectly controlling or controlled by another person, as hereinabove defined, or any person under direct or indirect common control with another person. It includes any person with whom a trustee has an express or implied agreement regarding the purchase of trust investments by each from the other, directly or indirectly, except a broker or stock exchange. "Affiliate."

5. "Trust" means an express trust only. "Trust."

SEC. 2. Bank Account to Pay Special Debts.

1. Whenever a bank account shall, by entries made on the books of the depositor and the bank at the time of the deposit, be created exclusively for the purpose of paying dividends, interest or interest coupons, salaries, wages, or pensions or other benefits to employees, and the depositor at the time of opening such account does not expressly otherwise declare, the depositor shall be deemed a trustee of such account for the creditors to be paid therefrom, subject to such power of revocation as the depositor may have reserved by agreement with the bank. Bank accounts for payment of special obligations.

2. If any beneficiary for whom such a trust is created does not present his claim to the bank for payment within one year Revocation as to creditors failing to present claims within one year.

after it is due, the depositor who created such trust may revoke it as to such creditor.

Loans of trust funds.

SEC. 3. Loan of Trust Funds. Except as provided in Section four, no corporate trustee shall lend trust funds to itself or an affiliate, or to any director, officer, or employee of itself or of an affiliate; nor shall any noncorporate trustee lend trust funds to himself, or to his relative, employer, employee, partner, or other business associate.

Funds for investment or distribution.

SEC. 4. Funds received or held by a bank as fiduciary awaiting investment or distribution shall be promptly invested, distributed or deposited to the credit of the trust department as a demand deposit in the commercial department of the bank or another bank: *Provided*, that the bank or the commercial department shall first deliver to the trust department, as collateral security, securities eligible for the investment of the sinking funds of the State of North Carolina equal in market value to such deposited funds, or readily marketable commercial bonds having not less than a recognized "A" rating equal to one hundred and twenty-five per cent (125%) of the funds so deposited; and such collateral security shall be held by the trust department in trust and for the special benefit of the estate or fund for which the deposit was made, or, in case the deposit consists of uninvested or undistributed funds belonging to several estates or trust funds, then in trust for the special benefit of said estates or funds in proportion to their respective interest in such deposits. The said securities shall at all times be kept separate and apart from the other assets of the trust department and proper records shall be kept by the proper officer in connection therewith. If such funds are deposited in a bank insured under the provisions of the Federal Deposit Insurance Corporation, the above collateral security will be required only for that portion of uninvested balances of each trust which are not fully insured under the provisions of that corporation. "Investment" and/or "invested" shall not be construed to include savings accounts or certificates or deposits in any bank.

Collateral security.

Custody and record of securities.

Not required for deposits covered by F. D. I. C.

Trading with self by trustees, prohibited.

SEC. 5. Trustee Buying from or Selling to Self. No trustee shall directly or indirectly buy or sell any property for the trust from or to itself or an affiliate; or from or to a director, officer, or employee of such trustee or of an affiliate; or from or to a relative, employer, partner, or other business associate.

Selling from one trust to another.

SEC. 6. Trustee Selling from one Trust to another Trust. No trustee shall as trustee of one trust sell property to itself as trustee of another trust.

SEC. 7. Corporate Trustee Buying Its Own Stock. No corporate trustee shall purchase for a trust shares of its own stock, or its bond or other securities, or the stock, bonds or other securities of an affiliate. Buying of own stock by corporate trustee.

SEC. 8. Voting Stock. A trustee owning corporate stock may vote it by proxy, but shall be liable for any loss resulting to the beneficiaries from a failure to use reasonable care in deciding how to vote the stock and in voting it. Voting stock.

SEC. 9. A bank holding stock as fiduciary may hold it in the name of a nominee, without mention of the trust in the stock certificate or stock registration book: *Provided*, that (1) the trust records and all reports or accounts rendered by the fiduciary clearly show the ownership of the stock by the fiduciary and the facts regarding its holdings; (2) the nominee shall not have possession of the stock certificate or access thereto except under the immediate supervision of the fiduciary. The fiduciary shall personally be liable for any loss to the trust resulting from any act of such nominee in connection with such stock so held. Banks holding stock as fiduciary.

SEC. 10. Powers Attached to Office. Unless it is otherwise provided by the trust instrument, or an amendment thereof, or by court order, all powers of a trustee shall be attached to the office and shall not be personal. Powers of trustee attached to office.

SEC. 11. Powers Exercisable by Majority.

1. Unless it is otherwise provided by the trust instrument, or an amendment thereof, or by court order, any power vested in three or more trustees may be exercised by a majority of such trustee; but no trustee who has not joined in exercising a power shall be liable to the beneficiaries or to others for the consequences of such exercise, nor shall a dissenting trustee be liable for the consequences of an act in which he joins at the direction of the majority trustees, if he expressed his dissent in writing to any of his cotrustees at or before the time of such joinder. Powers exercisable by majority of trustees.

2. Nothing in this section shall excuse a cotrustee from liability for inactivity in the administration of the trust nor for failure to attempt to prevent a breach of trust. Liability for inactivity.

SEC. 12. Contracts of Trustee.

1. Whenever a trustee shall make a contract which is within his powers as trustee, or a predecessor trustee shall have made such a contract, and a cause of action shall arise thereon, the party in whose favor the cause of action has accrued may sue the trustee in his representative capacity, and any judgment rendered in such action in favor of the plaintiff shall be col- Contracts of trustee. Civil actions against trustee.

lectible (by execution) out of the trust property. In such an action the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

Notice to each of beneficiaries.

2. No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within thirty days after the beginning of such action, or within such other time as the court may fix, and more than thirty days prior to obtaining the judgment, he notified each of the beneficiaries known to the trustee who then had a present interest, or in the case of a charitable trust the Attorney General and any corporation which is a beneficiary or agency in the performance of such charitable trust, of the existence and nature of the action. Such notice shall be given by mailing copies thereof in post-paid envelopes addressed to the parties to be notified at their last known addresses. The trustee shall furnish the plaintiff a list of the parties to be notified, and their addresses, within ten days after written demand therefor, and notification of the persons on such list shall constitute compliance with the duty placed on the plaintiff by this section. Any beneficiary, or in the case of charitable trusts the Attorney General and any corporation which is a beneficiary or agency in the performance of such charitable trust, may intervene in such action and contest the right of the plaintiff to recover.

Notice by mailing copies.

List of beneficiaries furnished by trustee.

Intervention by beneficiary.

Personal liability of trustee on contracts.

3. The plaintiff may also hold the trustee who made the contract personally liable on such contract, if the contract does not exclude such personal liability. The addition of the word "trustee" or the words "as trustee" after the signature of a trustee to a contract shall be deemed prima facie evidence of an intent to exclude the trustee from personal liability.

Exoneration and reimbursement of trustee for torts.

Sec. 13. Exoneration or Reimbursement for Torts.

1. A trustee who has incurred personal liability for a tort committed in the administration of the trust is entitled to exoneration therefor from the trust property if he has not discharged the claim, or to be reimbursed therefor out of trust funds if he has paid the claim, if (1) the tort was a common incident of the kind of business activity in which the trustee was properly engaged for the trust or, (2) although the tort was not a common incident of such activity if neither the trustee nor any officer or employee of the trustee was guilty of personal fault in incurring the liability.

2. If a trustee commits a tort which increases the value of the trust property, he shall be entitled to exoneration or reimbursement with respect thereto to the extent of such increase in value, even though he would not otherwise be entitled to exoneration or reimbursement.

3. Nothing in this section shall be construed to change the existing law with regard to the liability of trustees of charitable trusts for torts of themselves or their employees. Construction of section.

SEC. 14. Tort Liability of Trust Estate.

1. Where a trustee of his predecessor has incurred personal liability for a tort committed in the course of his administration, the trustee in his representative capacity may be sued and collection had from the trust property, if the court shall determine in such action that (1) the tort was a common incident of the kind of business activity in which the trustee or his predecessor was properly engaged for the trust; or (2) that, although the tort was not a common incident of such activity, neither the trustee nor his predecessor, nor any officer or employee of the trustee or his predecessor, was guilty of personal fault in incurring the liability; or (3) that, although the tort did not fall within classes (1) or (2) above, it increased the value of the trust property. If the tort is within classes (1) or (2) above, collection may be had of the full amount of damage proved; and if the tort is within class (3) above, collection may be had only to the extent of the increase in the value of the trust property. Tort liability of trust estate.

2. In an action against the trustee in his representative capacity under this section the plaintiff need not prove that the trustee could have secured reimbursement from the trust fund if he had paid the plaintiff's claim.

3. No judgment shall be rendered in favor of the plaintiff in such action unless he proves that within thirty days after the beginning of the action, or within such other period as the court may fix and more than thirty days prior to obtaining the judgment, he notified each of the beneficiaries known to the trustees who then had a present interest of the existence and nature of the action. Such notice shall be given by mailing copies thereof in postpaid envelopes addressed to such beneficiaries at their last known addresses. The trustee shall furnish the plaintiff a list of such beneficiaries and their addresses, within ten days after written demand therefor, and notification of the persons on such list shall constitute compliance with the duty placed on the plaintiff by this section. Any beneficiary may intervene in such action and contest the right of the plaintiff to recover. Notice to beneficiaries. List of beneficiaries furnished by trustee. Intervention by beneficiary.

4. The trustee may also be held personally liable for any tort committed by him, or by his agents or employees in the course of their employments, subject to the rights of exoneration or reimbursement provided in Section thirteen. Personal liability of trustee.

Construction of section.

5. Nothing in this section shall be construed to change the existing law with regard to the liability of trustees of charitable trusts for torts of themselves or their employees.

Withdrawals from mingled trust funds.

SEC. 15. Withdrawals from Mingled Trust Funds. Where a person who is a trustee of two or more trusts has mingled the funds of two or more trusts in the same aggregate of cash, or in the same bank or brokerage account of other investment, and a withdrawal is made therefrom by the trustee for his own benefit, or for the benefit of a third person not a beneficiary or creditor of one or more of the trusts, or for an unknown purpose, such a withdrawal shall be charged first to the amount of cash, credit, or other property of the trustee in the mingled fund, if any, and after the exhaustion of the trustee's cash, credit, or other property, then to the several trusts in proportion to their several interests in the cash, credit, or other property at the time of the withdrawal.

Unenforceable oral trusts created by deed.

SEC. 16. Unenforceable Oral Trust Created by Deed.

1. When an interest in real property is conveyed by deed to a person on a trust which is unenforceable on account of the Statute of Frauds and the intended trustee or his successor in interest still holds title but refuses to carry out the trust on account of the Statute of Frauds, the intended trustee or his successor in interest, except to the extent that the successor in interest is a bona fide purchaser of a legal interest in the real property in question, shall be under a duty to convey the interest in real property to the settlor or his successor in interest. A court having jurisdiction may prescribe the conditions upon which the interest shall be conveyed to the settlor or his successor in interest.

Duty to convey to settlor.

Liability of trustee upon transfer to bona fide purchaser.

2. Where the intended trustee has transferred part or all of his interest and it has come into the hands of a bona fide purchaser, the intended trustee shall be liable to the settlor or his successor in interest for the value of the interest thus transferred at the time of its transfer, less such offsets as the court may deem equitable.

Power of settlor.

SEC. 17. Power of Settlor. The settlor of any trust affected by this Act may, by provision in the instrument creating the trust if the trust was created by a writing, or by oral statement to the trustee at the time of the creation of the trust if the trust was created orally, or by an amendment of the trust if the settlor reserved the power to amend the trust, relieve his trustee from any or all of the duties, restrictions, and liabilities which would otherwise be imposed upon him by this Act; or alter or deny to his trustee any or all of the privileges and powers conferred upon the trustee by this Act; or add duties, restrictions and liabilities imposed upon him by Sections three, four and five of this Act.

SEC. 18. Power of Beneficiary. Any Beneficiary of a trust affected by this Act may, if of full legal capacity and acting upon full information, by written instrument delivered to the trustee relieve the trustee as to such beneficiary from any or all of the duties, restrictions, and liabilities which would otherwise be imposed on the trustee by this Act, except as to the duties, restrictions, and liabilities imposed by Sections three, four and five of this Act. Any such beneficiary may release the trustee from liability to such beneficiary for past violations of any of the provisions of this Act. Power of beneficiary.

SEC. 19. Power of the Court. A court of competent jurisdiction may, for cause shown and upon notice to the beneficiaries, relieve a trustee from any or all of the duties and restrictions which would otherwise be placed upon him by this Act, or wholly or partly excuse a trustee who has acted honestly and reasonably from liability for violations of the provisions of this Act. Power of court.

SEC. 20. Liabilities for Violations of Act. If a trustee violates any of the provisions of this Act, he may be removed and denied compensation in whole or in part; and any beneficiary, cotrustee, or successor trustee may treat the violation as a breach of trust. Penalty for violations.

SEC. 21. Uniformity of Interpretation. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it. Interpretation of Act.

SEC. 22. Short Title. This Act may be cited as the Uniform Trusts Act. Title of Act.

SEC. 23. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of the Act are declared to be severable. Partial invalidity clause.

SEC. 24. Repeal. All Acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed.

SEC. 25. Time of Taking Effect. This Act shall take effect the first day of July, one thousand nine hundred and thirty-nine and shall apply only to testamentary trusts created by wills or codicils executed after the effective date of the Act and to non-testamentary trusts created after the effective date of the Act. Effective date.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 647 CHAPTER 198

AN ACT TO AMEND CHAPTER ONE HUNDRED AND TWENTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE, BEING AN ACT PROVIDING FOR THE EXTENSION OF ASSESSMENTS.

The General Assembly of North Carolina do enact:

Ch. 126, Public Laws, 1935, amended to authorize extension of time for payment of special assessments.

SECTION 1. That Section one of Chapter one hundred and twenty-six, Public Laws of one thousand nine hundred and thirty-five be amended by striking out in line two the words: "One thousand nine hundred and thirty-six", and inserting in lieu thereof the words: "One thousand nine hundred and forty."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 667 CHAPTER 199

AN ACT TO AMEND SECTION ONE THOUSAND ONE HUNDRED AND FIFTY-SIX OF THE CONSOLIDATED STATUTES, AS AMENDED, RELATIVE TO CLASSES OF STOCK.

The General Assembly of North Carolina do enact:

C. S. 1156, amended to permit redemption or preferred stock in whole or in part on a pro rata basis at a fixed time or times.

SECTION 1. That Section one thousand one hundred and fifty-six of the Consolidated Statutes be and the same is hereby amended by inserting in line six thereof, between the word "redemption" and the word "at" the words "in whole or in part on a pro rata basis."

SEC. 2. That Section one thousand one hundred and fifty-six of the Consolidated Statutes be and the same is hereby amended by inserting in line seven thereof, between the word "time" and the word "and" the words "or times."

SEC. 3. This Act shall be in full force and effect from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 669 **CHAPTER 200**

AN ACT CONCERNING COMMON TRUST FUNDS AND TO MAKE UNIFORM THE LAW WITH REFERENCE THERETO.

The General Assembly of North Carolina do enact:

Establishment of common trust funds by banks and trust companies.

SECTION 1. Establishment of Common Trust Funds. Any bank or trust company qualified to act as fiduciary in this State may establish one or more common trust funds for the purpose of furnishing investments to itself as fiduciary, or to itself and another or others, as co-fiduciaries; and may, as such fiduciary or co-fiduciary, invest funds which it lawfully holds for investment in interests in such common trust fund or funds, if such investment is not prohibited by the instrument, judgment, decree, or order creating such fiduciary relationship or by an amendment thereof, and if, in the case of co-fiduciaries, the bank or trust company procures the consent of its co-fiduciary or co-fiduciaries to such investment.

Investments in common trust funds.

Court accountings not required.

SEC. 2. Court Accountings. Unless ordered by a court of competent jurisdiction the bank or trust company operating such common trust fund or funds shall not be required to render a court accounting with regard to such fund or funds; but it may, by application to the Superior Court, secure approval of such an accounting on such conditions as the court may establish. This section shall not affect the duties of the trustees of the participating trusts under the common trust fund to render accounts of their several trusts.

Approval by court upon application.

Regulation of common trust funds by State Banking Commission.

SEC. 3. State Banking Commission. All common trust funds established under the provisions of this Act shall be subject to the rules and regulations of the State Banking Commission.

Construction of Act.

SEC. 4. Uniformity of Interpretation. This Act shall be so interpreted and construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Title.

SEC. 5. Short Title. This Act may be cited as the Uniform Common trust Fund Act.

Partial invalidity section.

SEC. 6. Severability. If any provision of this Act or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect the other provisions or applications of the Act which can be given effect without the invalid provision or application, and to this end the provisions of this Act are declared to be severable.

Conflicting laws repealed.

SEC. 7. Repeal. All Acts or parts of Acts which are inconsistent with the provisions of this Act are hereby repealed.

Effective date.

SEC. 8. Time of Taking Effect. This Act shall be in full force and effect on and after July first, one thousand nine hundred

thirty-nine and shall apply to fiduciary relationships then in existence or thereafter established.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 679 CHAPTER 201

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED OF CONSOLIDATED STATUTES, VOLUME ONE, ONE THOUSAND NINE HUNDRED NINETEEN, RELATING TO THE ESTABLISHMENT OF MUNICIPAL RECORDERS COURTS.

The General Assembly of North Carolina do enact:

C. S., 1919, Vol. 1, section 1600, amended as to time for calling of elections on establishment of municipal Recorders' Courts.

SECTION 1. That Section one thousand six hundred of Consolidated Statutes, Volume one, one thousand nine hundred nineteen, be amended by striking out in line five, after the word "than" and before the word "from," the words "sixty days" and inserting in lieu thereof the words "two years."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 686 CHAPTER 202

AN ACT TO AMEND CHAPTER FORTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN RELATING TO THE BONDS OF MEMBERS OF COUNTY BOARDS OF ALCOHOLIC CONTROL.

The General Assembly of North Carolina do enact:

Sec. 9, Ch. 49, Public Laws, 1937, amended.

SECTION 1. That Section nine of Chapter forty-nine of the Public Laws of one thousand nine hundred thirty-seven be amended by adding at the end thereof the following:

Bonds of members of County Boards of Alcoholic Control.

"The three joint boards referred to in Section six of this Act shall be authorized to relieve any member of the county boards who does not handle any money or funds from furnishing such bond, and shall be further authorized to require bond in excess of five thousand dollars ($5,000) of any member of the board handling money or funds in the event said joint boards deem it advisable to increase such bond."

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 707 **CHAPTER 203**

AN ACT TO AUTHORIZE TAXING DISTRICTS, LOCAL IMPROVEMENT DISTRICTS, SCHOOL DISTRICTS AND CITIES, COUNTIES, TOWNS AND VILLAGES IN NORTH CAROLINA TO AVAIL THEMSELVES OF THE PROVISIONS OF THE FEDERAL BANKRUPTCY LAWS.

The General Assembly of North Carolina do enact:

SECTION 1. That with the approval of the Local Government Commission of North Carolina and with the consent of the holders of such percentage or percentages of its indebtedness as may be required by Public Act Number three hundred two of the Seventy-fifth Congress, First Session, entitled "An Act to amend an Act entitled 'An Act to establish a uniform system of bankruptcy throughout the United States' approved July first, one thousand eight hundred ninety-eight and Acts amendatory thereof and supplementary thereto," approved August sixteenth, one thousand nine hundred thirty-seven, as amended, any taxing district, local improvement district, school district, county, city, town or village in the State of North Carolina is authorized to avail itself of the provisions of said Act of Congress as said Act now exists or may be hereafter amended. Local units authorized to avail themselves of the provisions of Federal Bankruptcy Laws.

SEC. 2. That all Acts or parts of Acts in conflict herewith are to the extent of such conflict hereby repealed and that this Act shall be in full force and effect from and after its ratification, the public welfare requiring it. Conflicting laws repealed.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 734 CHAPTER 204

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED AND EIGHT OF THE CONSOLIDATED STATUTES, VOLUME THREE, AS AMENDED, RELATING TO COUNTY RECORDER'S COURTS IN ALEXANDER COUNTY.

The General Assembly of North Carolina do enact:

C. S., Vol. 3, section 1608, amended to provide for establishment of Recorder's Court, Alexander County.

SECTION 1. That Section one thousand six hundred and eight of the Consolidated Statutes, Volume three, as amended, be, and the same is hereby further amended by adding at the end thereof the following: "This sub-chapter shall apply to Alexander County."

Abolishment of court in discretion of County Commissioners.

SEC. 2. Whenever, in the opinion of the Board of County Commissioners of Alexander County, the conditions prevailing in such county are such as to no longer require the said court, such Board of County Commissioners may, by proper resolution reciting in brief the reasons therefor, abolish said court: *Provided,* such court shall be abolished only at the end of the terms of office of the judge and solicitor, unless such judge and solicitor shall voluntarily tender their resignations, in which event the Board of County Commissioners may forthwith abolish the same.

Conflicting laws repealed.

SEC. 3. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 771 CHAPTER 205

AN ACT TO AUTHORIZE JOINT ACQUISITION, CONSTRUCTION, IMPROVEMENT, MAINTENANCE AND OPERATION OF SEWERAGE WORKS BY ADJOINING OR ADJACENT MUNICIPAL CORPORATIONS AND TO AUTHORIZE THE FINANCING OF SUCH WORKS.

The General Assembly of North Carolina do enact:

Joint construction, operation, etc. of sewerage works by adjacent municipal corporations authorized.

SECTION 1. Two or more adjoining or adjacent municipal corporations shall have authority as hereinafter provided and set forth, by the adoption of resolutions to be passed by the governing body of each of said municipal corporations, to acquire, construct, improve, maintain and operate jointly, either within or without their corporate limits, sewerage works, including sewage treatment facilities, or any integral part of such works. In order

to render more effectual the exercise of the authority herein granted, such municipal corporations may enter into any and all contracts which may be appropriate to that end, among or between themselves, or with other parties. Contracts authorized.

SEC. 2. Municipal corporations so determining upon such sewerage works are hereby granted the same authority to issue bonds for the acquisition, construction and improvement of such works as is now given to any municipal corporation under the general laws of North Carolina, and particularly under the Municipal Finance Act, as amended. Power of corporations to issue bonds.

SEC. 3. The cost of any such joint acquisition, construction, improvement, maintenance and operation shall be apportioned between or among the participating municipal corporations in a manner to be by them agreed upon and determined. In order to pay such cost, such adjoining or adjacent municipal corporations may, by agreement between or among themselves, fix and establish reasonable charges for the use of such sewerage works. Any person, firm or corporation or other municipal corporation not participating in such joint construction and operation, who or which are living or are located outside of the corporate limits of such municipal corporations and desire to use such sewerage works, may be charged a reasonably higher rate for the use of such said works than that charged the users of the same who are living or located within the corporate limits of said participating municipal corporations. Apportionment of cost. Establishment of charges for use of sewerage works. Higher rates to persons, etc. outside corporate limits.

SEC. 4. The charges made for the use of said works shall be a lien upon the property served, and if any such charge shall not be paid within fifteen days after the same becomes payable, suit may be brought therefor in the name of the municipal corporation in which the property served is located, or the property, subject to the lien thereof, may be sold by the municipal corporation under the same rules and regulations, rights of redemption and savings, as are now or may hereafter be prescribed by law for the sale of land for unpaid taxes. Such municipal corporations shall have the right to establish reasonable rules and regulations for the use of said sewerage works and the collection of charges therefor, and said municipal corporations, through their officers or agents, are hereby authorized and empowered, in accordance with such reasonable regulations, to enter upon the premises of any person, firm or corporation using said sewerage works and failing to pay the charges therefor, and to disconnect the sewer line of such person, firm, or corporation from the public sewer line or disposal plant; and any person, firm or corporation who shall connect with such public sewer line or disposal plant, or reconnect his or their property therewith, without a permit from the officer authorized to give the same, shall be guilty of a misdemeanor and shall be fined or imprisoned at the discretion of any court of competent jurisdiction. Charge declared lien upon property. Suit for collection. Sale of property authorized. Municipalities to prescribe rules and regulations. Disconnection of lines authorized upon failure to pay charges. Reconnection of lines without authority therefor made misdemeanor.

Authorities herein granted applicable to joint works initiated or completed prior to this Act.

SEC. 5. The authority to issue bonds for the purpose of financing in whole or in part works of the type herein made provision for, and the authority to perform any other acts authorized hereunder, may be exercised in connection with sewerage works the construction of which may have been jointly initiated or completed by two or more adjoining or adjacent municipal corporations prior to the effective date of this Act; and all acts done and proceedings had in relation to such joint construction of such works, and all acts, resolutions or ordinances heretofore performed, adopted or enacted in connection with the authorization or issuance of bonds to finance such joint construction, if such bonds are otherwise authorized or issued under and in substantial compliance with any applicable general law of North Carolina, are hereby ratified, validated and confirmed.

Prior acts and proceedings, etc. validated.

Conflicting laws repealed.

SEC. 6. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 7. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 786 CHAPTER 206

AN ACT TO PERMIT THE GOVERNOR AND THE COUNCIL OF STATE TO SETTLE, ADJUST, OR COMPROMISE ANY CLAIMS FOR TAXES WHICH THE STATE MAY HAVE AGAINST ANY OF THE COUNTIES OF THIS STATE.

Levy of ad valorem tax by counties for support of six months school term.

WHEREAS, under the provisions of Section four hundred ninety-two of Chapter four hundred twenty-seven, Public Laws of one thousand nine hundred thirty-one, the Boards of County Commissioners of the several counties of the State were required to and did levy a tax of fifteen cents on each one hundred dollars valuation of real and personal property in said counties for the support of the constitutional term of six months schools in this State; and

Default by counties.

WHEREAS, a large number of counties in this State have been unable to meet the requirements of said section in full; and

Adjustment of claims advisable.

WHEREAS, it would be to the best interest of the counties concerned and to the State as a whole that all such claims now existing be settled, adjusted, or compromised; *Now, therefore, The General Assembly of North Carolina do enact:*

SECTION 1. That the Governor and Council of State, and the several counties of the State, be, and they are hereby authorized to settle, adjust, or compromise any and all claims which the State has against any of the counties of this State, in such amounts as may be agreed upon as to them may seem fair, just, equitable, and to the best interest of the State of North Carolina and to the counties concerned, for taxes levied under the provisions of Section four hundred ninety-two of Chapter four hundred twenty-seven of the Public Laws of one thousand nine hundred thirty-one.

Adjustment by State of claims for taxes arising pursuant to Sec. 492, Ch. 427, Public Laws, 1931, authorized.

SEC. 2. When any settlement, adjustment, or compromise has been agreed upon, as herein provided, such settlement, adjust, or compromise shall have the effect of relieving the counties concerned of any further liability on account of the taxes levied under the provisions of the Act above referred to.

Counties relieved of further liability.

SEC. 3. All laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 4. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 799 **CHAPTER 207**

AN ACT TO AMEND CHAPTER ONE OF THE PUBLIC LAWS OF THE EXTRA SESSION OF ONE THOUSAND NINE HUNDRED THIRTY-SIX KNOWN AS THE UNEMPLOYMENT COMPENSATION LAW.

The General Assembly of North Carolina do enact:

SECTION 1. That Section eleven, Subsection (g) of Chapter one of the Public Laws of the Extra Session of one thousand nine hundred thirty-six, known as the Unemployment Compensation Law, be, and the same is hereby amended by adding the following clause at the end of said subsection:

Sec. 11, Ch. 1, Public Laws, Extra Session, 1936, amended.

"That all reports, statements, information and communications of every character so made or given to the commission, its deputies, agents, examiners and employees, whether same be written, oral or in the form of testimony at any hearing, or whether obtained by the commission from the employing unit's books and records shall be absolute privileged communications in any civil or criminal proceedings other than proceedings instituted pursuant to this Act and proceedings involving the administration of this Act; *provided*, nothing herein contained

Reports, information, etc. given to Commission, declared privileged communications.

shall operate to relieve any employing unit from disclosing any information required by this Act or as prescribed by the commission involving the administration of this Act."

Conflicting laws repealed.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 3. This Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified this the 28th day of March, 1939.

H. B. 800 CHAPTER 208

AN ACT TO AMEND SENATE BILL SIXTY, RATIFIED FEBRUARY TWENTY-FOURTH, ONE THOUSAND NINE HUNDRED THIRTY-NINE, AMENDING CHAPTER ONE OF THE PUBLIC LAWS OF THE EXTRA SESSION OF ONE THOUSAND NINE HUNDRED THIRTY-SIX, KNOWN AS THE "UNEMPLOYMENT COMPENSATION LAW."

The General Assembly of North Carolina do enact:

Sec. 4, Ch. 52, Public Laws, 1939, amended.

SECTION 1. That Section four of Senate Bill sixty, ratified February twenty-fourth, one thousand nine hundred thirty-nine, amending Chapter one of the Public Laws, extra session one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby, amended by striking out Section four of said Senate Bill sixty and inserting in lieu thereof the following section:

Sec. 9, Ch. 1, Public Laws, Extra Session, 1936, amended.

"SEC. 4. That Section nine of Chapter one of the Public Laws of the extra session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby, amended by adding the following subsection to said Section nine: '(e) Notwithstanding any requirements of the foregoing subsections of this section, the commission shall, prior to whichever is the later of (i) thirty days after the close of this session of the Legislature and (ii) July first, one thousand nine hundred thirty-nine, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in the Unemployment Trust Fund, established and maintained pursuant to Section nine hundred and four of the Social Security Act as amended, to the Railroad Unemployment Insurance Account, established and maintained pursuant to Section ten of the Railroad Unemployment Insurance Act, an amount hereinafter referred to as the preliminary amount; and shall, prior to whichever is

Transfers from State's account in Unemployment Trust Fund, to Railroad Unemployment Insurance Account.

Transfer of preliminary amount.

the later of (i) thirty days after the close of this session of the Legislature and (ii) January first, one thousand nine hundred and forty, authorize and direct the Secretary of the Treasury of the United States to transfer from this State's account in said Unemployment Trust Fund to said Railroad Unemployment Insurance Account an additional amount, hereinafter referred to as the liquidating amount. The Social Security Board shall determine both such amounts after consultation with the commission and the Railroad Retirement Board. The preliminary amount shall consist of (1) the proportion of the balance in the pooled account in the Unemployment Compensation Fund of this State as of June thirtieth, one thousand nine hundred thirty-nine, which the total amount of contributions collected from employers (as defined by Section one (a) of the Railroad Unemployment Insurance Act) prior to July first, one thousand nine hundred thirty-nine, and credited to such pooled account bears to all contributions theretofore collected pursuant to this Act and credited to the pooled account, plus (2) the amounts remaining as balances in the reserve accounts of employers (as defined by Section one (a) of the Railroad Unemployment Insurance Act) as of June thirtieth, one thousand nine hundred thirty-nine. The liquidating amount shall consist of the total amount of contributions collected from employers (as defined in Section one (a) of the Railroad Unemployment Insurance Act) pursuant to the provisions of this Act during the period July first, one thousand nine hundred thirty-nine, to December thirty-first, one thousand nine hundred thirty-nine, inclusive: *Provided, however*, expenditures of such monies shall not be subject to approval of the Budget Bureau or any provisions of law requiring specific appropriations or other formal release by State officers of money in their custody."

Transfer of liquidating amount.

"Preliminary amount" defined.

"Liquidating amount" defined.

Expenditures.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 801 **CHAPTER 209**

AN ACT TO AMEND SENATE BILL FIFTY-NINE, RATIFIED FEBRUARY FIFTEENTH, ONE THOUSAND NINE HUNDRED THIRTY-NINE, AMENDING CHAPTER ONE OF THE PUBLIC LAWS OF THE EXTRA SESSION OF ONE THOUSAND NINE HUNDRED THIRTY-SIX, KNOWN AS THE UNEMPLOYMENT COMPENSATION LAW.

The General Assembly of North Carolina do enact:

Sec. 8, Ch. 27, Public Laws, 1939, amended.

SECTION 1. That Section eight of Senate Bill fifty-nine, enacted and ratified by the General Assembly on the fifteenth day of February, one thousand nine hundred thirty-nine, amending Section eleven of Chapter one of the Public Laws of the extra session of one thousand nine hundred thirty-six, known as the "Unemployment Compensation Law," be, and the same is hereby amended in the following particulars: (1) In line seven of said Section eight, after the second word, insert

Notice.

"after due notice" so as to make the line read as follows: "The commission after due notice shall have the right and power . . . ."; (2) Strike out all that portion of said Section eight, beginning with the word "upon" in line ninety-five of said section and ending with the period after the word "law" in line one hundred three, and insert in lieu thereof the following:

Lien of judgments for contributions.

"upon any realty owned by said employer in the county only from the date of docketing of such decision or determination in the office of the Clerk of the Superior Court and upon personalty owned by said employer in said county only from the date of levy on such personalty, and upon the execution thereon no homestead or personal property exemptions shall be allowed; *provided*, that nothing herein shall affect any rights accruing to the commission under Section fourteen of the Unemployment Compensation Law and subsections thereunder" so as to make the sentence read as follows: "(o) The decision or determination of the commission when docketed in the office of the Clerk of the Superior Court of any county and when properly indexed and cross indexed shall have the same force and effect as a judgment rendered by the Superior Court, and if it shall be adjudged in the decision or determination of the commission that any employer is indebted to the commission for contributions, penalties and interest or either of the same, then said judgment shall constitute a lien upon any realty owned by said employer in the county only from the date of docketing of such decision or determination in the office of the Clerk of the Superior Court and upon personalty owned by said employer in said county only from the date of levy on such personalty, and upon the execution thereon no homestead or personal property exemptions shall be allowed;

Homestead and personal property exemptions not allowed upon execution.

Decisions of Commision granted same force and effect as judgment of Superior Court.

Lien on realty from and after date of docketing.

Lien on personalty from date of levy.

provided, that nothing herein shall affect any rights accruing to the commission under Section fourteen of the Unemployment Compensation Law and subsections thereunder." Construction of section.

SEC. 2. All laws and parts of laws in conflict herewith are hereby repealed.

SEC. 3. This Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 821 CHAPTER 210

AN ACT TO AMEND SECTIONS THREE THOUSAND TWO HUNDRED NINETY-NINE AND THREE THOUSAND THREE HUNDRED AND FIVE OF THE CONSOLIDATED STATUTES, VOLUME THREE, ONE THOUSAND NINE HUNDRED TWENTY-FOUR, RELATIVE TO PROBATE AND REGISTRATION.

The General Assembly of North Carolina do enact:

SECTION 1. That Section three thousand two hundred ninety-nine of the Consolidated Statutes, Volume three, one thousand nine hundred twenty-four, be amended by striking out all of said section after the colon following the word "cases" in line ten and inserting in lieu thereof the following: *"Provided,* that nothing contained herein shall prevent the Clerk of the Superior Court who is a party to any instrument or who is a stockholder or officer of any bank or other corporation, from adjudicating and ordering such instruments for registration as have been acknowledged or proven before some justice of the peace or notary public. All probates, adjudications, and orders of registration made prior to January first, one thousand nine hundred thirty, by any such clerk of conveyances or other papers in which said clerk is an interested party, or other papers by any corporation in which such clerk also is an officer or stockholder, are hereby validated and declared sufficient for all such purposes." C. S., 1924, Vol. 3, section 3299, amended. Probate of instruments to which Clerk of Superior Court is party, and corporate papers where Clerk is officer, etc. Prior probates, etc. validated.

SEC. 2. That Section three thousand three hundred and five of the Consolidated Statutes, Volume three, one thousand nine hundred twenty-four, be amended by striking out all of said section after the period following the word "state" in line fifteen and inserting in lieu thereof the following: "The acknowledgment of such instruments may also be made before a justice of the peace or notary public of said county and the adjudication of the sufficiency of the certificate of said justice C. S., 1924, Vol. 3, section 3305, amended. Adjudication and order of registration by Clerk.

of the peace or notary public may be made by said clerk or his deputy: *Provided*, that nothing contained herein shall prevent the Clerk of the Superior Court who is a party to any instrument or who is a stockholder or officer of any bank or other corporation, from adjudicating and ordering such instruments for registration as have been acknowledged or proven before some justice of the peace or notary public. All probates, adjudications, and orders of registration made prior to January first, one thousand nine hundred thirty, by any such clerk of conveyances or other papers in which said clerk is an interested party, or other papers by any corporation in which such clerk also is an officer or stockholder, are hereby validated and declared sufficient for all such purposes."

Prior adjudications and orders validated.

Pending litigation unaffected.

SEC. 3. Nothing in this Act shall effect pending litigation.

Conflicting laws repealed.

SEC. 4. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 844 CHAPTER 211

AN ACT TO AMEND CHAPTER TWO HUNDRED AND EIGHTY-ONE, PUBLIC LAWS ONE THOUSAND NINE HUNDRED AND THIRTY-THREE, EXEMPTING JACKSON COUNTY FROM THE PROVISIONS OF CHAPTER ONE HUNDRED AND SIXTY, PUBLIC LAWS, ONE THOUSAND NINE HUNDRED AND THIRTY-THREE, RELATING TO CROP LIENS AND FEDERAL CHATTEL MORTGAGES.

The General Assembly of North Carolina do enact:

Ch. 281, Public Laws, 1933, as to fees for recording Federal crop liens and chattel mortgages, amended to apply to Jackson County.

SECTION 1. That Chapter two hundred and eighty-one, of the Public Laws of one thousand nine hundred and thirty-three, be and the same is hereby amended by striking out the word "Jackson" in the last line of Section one of said chapter, it being the intent and purpose of this Act to make the provisions of Chapter one hundred and sixty of the Public Laws of one thousand nine hundred and thirty-three, as amended, applicable to Jackson County, the said chapter being an Act relating to the fees for registering Federal crop lien and Federal Chattel Mortgages.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 845 **CHAPTER 212**

AN ACT RELATING TO THE TERMS OF SUPERIOR COURT FOR JACKSON COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter one hundred and seven of the Public Laws of one thousand nine hundred and thirty-three be and the same is hereby repealed. Ch. 107, Public Laws, 1933, repealed.

SEC. 2. That Section one thousand four hundred and forty-three of Volume three of the Consolidated Statutes be and the same is hereby amended by striking out all of the paragraph under the Twentieth Judicial District relating to Jackson County and inserting in lieu thereof the following: C. S., Vol. 3, section 1443, amended.

"Jackson. Second Monday before the first Monday in March; eleventh Monday after the first Monday in March, for the trial of civil cases only, each to continue for two weeks; fourteenth Monday after the first Monday in March, for the trial of criminal cases only and for this term of court the Governor shall assign a judge to hold same from among the regular, special or emergency judges; fifth Monday after the first Monday in September to continue for two weeks. Terms of Superior Court, Jackson County.

The County Commissioners, may, in their judgment abrogate the term herein provided to be held on the fourteenth Monday after the first Monday in March, the jurors for this term to be drawn at the same time as those for the May term, service to be withheld pending the decision of the County Commissioners."

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 850 CHAPTER 213

AN ACT TO AMEND CHAPTER EIGHTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE TO PROVIDE FOR THE TRANSFER TO THE SUPERIOR COURT OF ALL CASES IN THE COUNTY CRIMINAL COURT OF LEE COUNTY IN WHICH A JURY TRIAL IS DEMANDED.

The General Assembly of North Carolina do enact:

Ch. 89, Public Laws, 1931, amended.

SECTION 1. That Section eleven, of Chapter eighty-nine of the Public Laws of one thousand nine hundred thirty-one be and the same is hereby amended by striking out the period at the end of said section and inserting in lieu thereof a semicolon and adding thereto the following: "*Provided, however*, that the foregoing provision relative to jury trials shall not apply to the County Criminal Court of Lee County and when a jury trial is demanded in the County Criminal Court of Lee County, by either the State or the defendant, the cause shall be immediately transferred to the criminal trial docket of the Superior Court of Lee County for trial at the next succeeding criminal term of the Lee County Superior Court, and the Superior Court of Lee County shall thereupon become vested with jurisdiction for the trial of said case."

Transfer of County Criminal Court cases, Lee County, to Superior Court, upon demand for jury trial.

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act to the extent of such conflict are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 882 CHAPTER 214

AN ACT TO AMEND CHAPTER SIX HUNDRED FIFTY-ONE, PUBLIC LAWS, ONE THOUSAND NINE HUNDRED NINE, AS AMENDED RELATING TO THE JURISDICTION OF THE MUNICIPAL COURT FOR THE CITY OF GREENSBORO.

The General Assembly of North Carolina do enact:

Ch. 651, Public Laws, 1909, amended as to jurisdiction of misdemeanors, Municipal Court, City of Greensboro.

SECTION 1. That Section five, Chapter six hundred fifty-one, Public Laws of one thousand nine hundred nine, as amended, be amended by striking out the following words: "of all misdemeanors above the final jurisdiction of Justices of the Peace"; curring" in the first sentence in said section, and substituting in lieu thereof the following: "to hear and determine all misdemeanors above the final jurisdiction of Justices of the Peace"; and by striking out all of the last sentence of said Section five.

Limitation on territorial jurisdiction repealed.

SEC. 2. That all laws and clauses of laws in conflict herewith are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 888 CHAPTER 215

AN ACT TO AMEND CHAPTER THREE HUNDRED THIRTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE SO AS TO REQUIRE THE LICENSING OF PLUMBING AND HEATING CONTRACTORS IN ROWAN COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. Amend Section one of Chapter three hundred thirty-eight of the Public Laws of one thousand nine hundred and thirty-five by adding at the end thereof the following: Ch. 338, Public Laws, 1935, amended to provide for regulation of plumbing and heating contractors, Rowan County.

"*Provided,* that all requirements and provisions of this Act shall apply to Rowan County."

SEC. 2. That all laws and clauses of laws in conflict with or repugnant to the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. B. 915 CHAPTER 216

AN ACT TO EXEMPT FORSYTH COUNTY FROM CERTAIN PROVISIONS OF CHAPTER TWO HUNDRED SIXTY OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE, RELATIVE TO THE FILING OF A LIST WITH THE REGISTER OF DEEDS CONTAINING THE NAMES OF TAXPAYERS ON WHOSE PROPERTY A LIEN OR INTEREST IS HAD.

The General Assembly of North Carolina do enact:

SECTION 1. That Section six, Chapter two hundred sixty, Public Laws of one thousand nine hundred thirty-one, be amended by adding at the end of Section six the following: Ch. 260, Public Laws, 1931, amended.

Forsyth County exempted from provisions of section requiring filing of list of liens by lien holders.

"Forsyth County and all municipalities and political subdivisions therein are exempted from the provisions of this section, and no failure to comply therewith shall affect the validity of any title to property heretofore or hereafter conveyed in any tax or special assessment foreclosure proceeding."

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

S. B. 19 CHAPTER 217

AN ACT TO REPEAL CHAPTER FOUR HUNDRED THIRTY-TWO OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, AND TO AMEND CHAPTER TWO HUNDRED TWENTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-THREE RELATING TO BASTARDY.

The General Assembly of North Carolina do enact:

Ch. 432, Public Laws, 1937, relating to non-support of illegitimate child, repealed.

SECTION 1. That Chapter four hundred thirty-two of the Public Laws of one thousand nine hundred thirty-seven be, and the same is hereby repealed.

Sec. 1, Ch. 228, Public Laws, 1933, amended.

SEC. 2. That Section one of Chapter two hundred twenty-eight of the Public Laws of one thousand nine hundred thirty-three be stricken out and the following substituted in lieu thereof:

Penalty for non-support by parent of illegitimate child under 14 years of age.

"SEC. 1. Any parent who wilfully neglects or who refuses to support and maintain his or her illegitimate child shall be guilty of a misdemeanor and subject to such penalties as are hereinafter provided. A child within the meaning of this Act shall be any person less than fourteen years of age and any person whom either parent might be required under the laws of North Carolina to support and maintain if such child were the legitimate child of such parent."

Section 3, amended.

SEC. 3. That Section three of Chapter two hundred twenty-eight of the Public Laws of one thousand nine hundred thirty-three be, and the same is hereby stricken out and the following substituted in lieu thereof:

Time for institution of proceedings to determine paternity of child.

"SEC. 3. Proceedings under this Act to establish the paternity of such child may be instituted at any time within three years next after the birth of the child, and not thereafter: *Provided, however,* that where the reputed father has acknowledged the paternity of the child by payments for the sup-

port of such child within three years from the date of the birth thereof, and not later, then, in such case, prosecution may be brought under the provisions of this Act within three years from the date of such acknowledgment of the paternity of such child by the reputed father thereof."

Section 6, amended.

Sec. 4. That Section six of Chapter two hundred twenty-eight of the Public Laws of one thousand nine hundred and thirty-three be, and the same is hereby stricken out and the following substituted in lieu thereof:

Jurisdiction of Superior Court and inferior courts.

"Sec. 6. Proceedings under this Act shall be instituted only in the Superior Court of any county of this State, or in any court inferior to the Superior Court of this State, except courts of justices of the peace and courts whose criminal jurisdiction does not exceed that of justices of the peace. Justices of the peace may issue warrants for violations of this Act made returnable to any court having jurisdiction of such violations under the terms of this Act.

Determination of issues of fatherhood and non-support.

"The court before which the matter may be brought shall determine whether or not the defendant is a parent of the child on whose behalf the proceeding is instituted. After this matter has been determined in the affirmative, the court shall proceed to determine the issue as to whether or not the defendant has neglected or refused to support and maintain the child who is the subject of the proceeding. After this matter shall have been determined in the affirmative, the court shall fix by order, subject to modification or increase from time to time, a specific sum of money necessary for the support and maintenance of the particular child who is the object of the proceedings. The court in fixing this sum shall take into account the circumstances of the case, the financial ability to pay and earning capacity of the defendant, and his or her willingness to cooperate for the welfare of the child. The order fixing the sum shall require the defendant to pay it either as a lump sum or in periodic payments as the circumstances of the case may appear to the court to require. Compliance by the defendant with any or all of the further provisions of this Act or the order or orders of the court requiring additional acts to be performed by the defendant shall not be construed to relieve the defendant of his or her responsibility to pay the sum fixed or any modification or increase thereof."

Order of payment of fixed sum of money.

Considerations for determining sums allowed.

Lump sum or periodic payments.

Sec. 5, amended as to testimony of mother against accused.

Sec. 5. That Section five of Chapter two hundred twenty-eight of the Public Laws of one thousand nine hundred thirty-three be amended by striking out the comma after the word "testify" in line nine and inserting in lieu thereof a period, and striking out the following words, "nor shall she be forced or compelled to testify against the accused party against her will."

Section 7, amended to delete subsection providing for apprenticeship.

SEC. 6. That Section seven of Chapter two hundred twenty-eight of the Public Laws of one thousand nine hundred thirty-three be amended by striking out all of Subsection (d) thereof.

Conflicting laws repealed.

SEC. 7. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Pending litigation and accrued causes unaffected.

SEC. 7½. The provisions of this Act shall not apply to pending litigation or to accrued causes of action.

SEC. 8. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 88 CHAPTER 218

AN ACT TO PROVIDE A UNIFORM PROCEDURE FOR THE SUSPENSION OR REVOCATION BY CERTAIN NORTH CAROLINA BOARDS AND COMMISSIONS OF LICENSES TO ENGAGE IN TRADES AND LAWFUL CALLINGS.

The General Assembly of North Carolina do enact:

Procedure for hearings on suspension or revocation of licenses, by certain State Boards and Commissions.

SECTION 1. No license issued by the State Board of Examiners of Electrical Contractors, State Licensing Board for Contractors, State Board of Accountancy, State Board of Embalmers, Board of Chiropody Examiners, North Carolina Board of Veterinary Medical Examiners, Board of Barber Examiners, State Board of Registration for Engineers and Land Surveyors, Cosmetologists Board, Dry Cleaners Board, Real Estate Board, Tile Contractors Board, Plumbing and Heating Board, Board of Boiler Rules, and Board of Photographic Examiners shall be revoked or suspended except according to a procedure which shall conform as near as may be to the procedure now provided by law for hearings before referees in compulsory references and shall include (1) a notice in writing to the person whose license is involved, stating the charge or charges against the said licensee and fixing a date and place for a hearing which shall not be less than thirty days from the issuance of said notice upon the person to whom it is issued, and shall be served upon the person named therein by an officer authorized by law to serve process, or by mailing by registered mail to the person named therein at the address given in the license or the last known address; (2) a hearing before the board, or a member thereof specifically designated by the board for the purpose of hearing the matters involved, at which hearing the accused shall have the right to be present to

Notice to licensee.

Statement of charge and time and place for hearing.

Service.

Hearing.

Rights of accused.

enter his defense, if any, and be represented by counsel and produce evidence by witnesses or records; (3) notice of action by the board which shall be a written report containing findings of fact and conclusions of law thereon; (4) appeal from the action of the board to the Superior Court of the county in which the hearing was held or to the Superior Court of Wake County upon filing of an appeal bond in the sum of fifty dollars which shall act as a supersedeas.

Notice of decision by board.

Right of appeal to Superior Court.

Appeal bond.

SEC. 2. All hearings shall be in the county of the residence of the person whose license is involved; *provided* that after notice such person and the board may agree that the hearing may be held in some other county.

Venue of hearings.

SEC. 3. For all hearings the board shall have authority to issue subpoenas to witnesses to appear in person and to produce books, records, papers and other evidence as may be necessary or requested.

Authority of boards to issue subpoenas, etc.

SEC. 4. When appeal is taken from the decision of the board, the person whose license is involved shall give notice in writing of appeal and shall state therein the exceptions to the decision of the board. Within thirty days the board shall cause to be filed in the office of the Clerk of the Court in the proper county a complete transcript, including the notice of charges, evidence taken at the hearing, the order or decision of the board and the exceptions filed thereto. The person whose license is involved shall upon his appeal have the right to a trial by jury of the issues of fact arising on the pleadings, but such trial shall be only upon the written evidence taken before the trial committee or counsel.

Notice of appeal.

Transcript of record to Clerk Superior Court.

Right of trial by jury.

If after the action of the board new evidence shall be discovered by the person whose license is involved or by the board, motion may be made that the matter be remanded to the board for the taking of further evidence, and order thereon may be entered in the discretion of the Judge of the Superior Court in which the matter is pending.

Motion to remand upon discovery of additional evidence.

SEC. 5. From any decision of the Superior Court either the board or the person whose license is involved shall have the right of appeal to the Supreme Court. Whenever any notice of appeal is given and the bond required herein is filed, the order of the board shall be superseded until the appeal is finally determined, whereupon, unless reversed, modified or changed, the order shall become binding.

Right of appeal to Supreme Court.

SEC. 6. Whenever any license has been suspended or revoked by any of the boards named in Section one hereof, the board shall have the right to restore the license upon satisfactory evidence that the person whose license has been suspended or re-

Power of board to restore licenses.

voked intends to comply with the law and the rules and regulations of the board.

Additional powers of boards.

SEC. 7. The board is empowered and authorized to sue or be sued in its own name and to apply for such writs as may be desired to prevent the violations of the provisions of the Act establishing said board and the amendments thereto.

Construction of Act.

SEC. 8. Nothing in this Act shall be construed to remove any additional procedural requirement which may be provided in the law creating either of the boards named in Section one, nor as preventing either of such boards from providing additional rules and regulations concerning the procedure for the suspension or revocation of license.

Conflicting laws repealed.

SEC. 9. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 10. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 93 **CHAPTER 219**

AN ACT TO TRANSFER MRS. DELSIE OLLIS, WIDOW OF A CONFEDERATE VETERAN, OF AVERY COUNTY, FROM CLASS "B" TO CLASS "A" ON THE CONFEDERATE PENSION ROLL.

The General Assembly of North Carolina do enact:

Mrs. Delsie Ollis, Avery County, transferred to Class "A," Confederate pension roll.

SECTION 1. That Mrs. Delsie Ollis of Altamont, Avery County, widow of J. T. Ollis, deceased, a Confederate veteran, be, and she is hereby placed on the pension roll of Avery County to receive the pension now allowed widows of Confederate veterans in Class "A": *Provided, however,* that approval of the Avery County Pension Board and the State Pension Board shall be had before payment.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 114 CHAPTER 220

AN ACT TO PROVIDE FOR SUPPLYING THE LIBRARY OF CONGRESS WITH COPIES OF SESSION LAWS AND OTHER STATE PUBLICATIONS.

Preamble: Desire of Library of Congress for copies of North Carolina State documents.

WHEREAS, the Library of Congress is extremely desirous of securing copies of all North Carolina State documents issues either in printed or mimeographed form promptly upon publication, and in sufficient numbers to insure efficient service to their many readers; *Now, therefore*

The General Assembly of North Carolina do enact:

Copies of State publications furnished to Library of Congress by Secretary of State.

SECTION 1. That the Secretary of State be and he is hereby authorized and directed to furnish the division of Documents of the Library of Congress, in Washington, biennially, eight (8) copies of the Session Laws, two (2) sets of Legislative Journals, and five (5) copies of the North Carolina Manual, to be furnished by the Legislative Reference Librarian, and also five copies of the Supreme Court Reports as issued, in the same manner as now provided by law for the distribution of such documents.

Copies of State reports, etc. furnished by officials of State departments and institutions.

SEC. 2. That the head of each State department or institution making printed or mimeographed reports to the Governor or the General Assembly or issuing any publication, is hereby authorized and directed to furnish said Library of Congress two (2) copies of each report, study, map or other publication issued by said department or institution.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 132 CHAPTER 221

AN ACT TO AMEND SECTION ONE THOUSAND ONE HUNDRED AND SIXTY-ONE OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO DECREASE OF CAPITAL STOCK OF CORPORATIONS.

The General Assembly of North Carolina do enact:

C. S. 1161, amended as to time of publication of certificate decreasing capital stock of corporations.

SECTION 1. That Section one thousand one hundred and sixty-one of the Consolidated Statutes of North Carolina be, and the same is hereby amended by striking out in line fourteen (14) of said section the words "filing of the certificate" and inserting in lieu thereof the following: "decrease has been regularly authorized by the stockholders."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 133 **CHAPTER 222**

AN ACT TO AMEND SECTION ONE THOUSAND ONE HUNDRED AND FOURTEEN (ONE) OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA, AS AMENDED BY CHAPTER ONE HUNDRED AND SIXTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE, RELATING TO THE NAME OF DOMESTIC CORPORATIONS.

The General Assembly of North Carolina do enact:

C. S. 1114 (1), amended.

Ch. 166, Public Laws, 1935, amended to restrict selection of corporate name by domestic corporations.

SECTION 1. That Section one thousand one hundred and fourteen (one) of the Consolidated Statutes of North Carolina, as amended by Chapter one hundred and sixty-six of the Public Laws of one thousand nine hundred and thirty-five, be, and the same is hereby amended by striking out lines seventeen and eighteen of said Chapter one hundred and sixty-six of the Public Laws of one thousand nine hundred and thirty-five and inserting in lieu thereof the following: "nearly resembling or deceptively similar to such existing corporate names as may be likely to mislead or deceive the public or tend to confusion of identity."

Chapter further amended to require approval of corporate name by Secretary of State.

SEC. 2. That Chapter one hundred and sixty-six of the Public Laws of one thousand nine hundred and thirty-five be further amended by striking out the period in line twenty thereof and inserting in lieu thereof a comma and the following: "and will not be accepted for filing unless approved by the Secretary of State."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 137 **CHAPTER 223**

AN ACT TO AMEND THE LABOR LAWS RELATING TO MINES AND QUARRIES.

The General Assembly of North Carolina do enact:

SECTION 1. That for the purpose of providing for the safety of workers in quarries in North Carolina, the provisions of Articles one and two of Chapter one hundred twelve of the Consolidated Statutes of one thousand nine hundred nineteen relating to the operation and inspection of mines are declared to be, and the same are hereby made applicable to quarries in so far as such provisions are suitable to the operation and inspection of quarries.

C. S., Ch. 112, Art. 1 and 2, relating to operation of mines, made applicable to quarries.

SEC. 2. That Section six thousand nine hundred seven of the Consolidated Statutes of one thousand nine hundred nineteen be, and the same is hereby amended to read as follows:

C. S., 1919, section 6907, amended.

"6907. Report to inspector. The owner, lessee, or agent in charge of any mine or quarry, or who is engaged in mining or quarrying or producing any mineral whatsoever in this State, shall, on or before the thirtieth day of January 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 preceding calendar year 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."

Reports to mine inspector.

Contents.

SEC. 3. That Section six thousand nine hundred nineteen of the Consolidated Statutes of one thousand nine hundred nineteen be, and the same is hereby repealed; *Provided*, that nothing herein shall require the owner, lessor or agent in charge of any quarry who does not employ more than ten persons to work in any one quarry at the same time, to file or make any of the reports required under this Act.

C. S., 1919, section 6919, as to application of mining law, repealed.

Reports not required for small quarries.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 195 **CHAPTER 224**

AN ACT TO CLARIFY AND AMEND CHAPTER FIFTY-TWO OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-ONE, AS AMENDED BY CHAPTER FIFTY-SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-THREE RELATING TO THE LICENSING OF PLUMBING AND HEATING CONTRACTORS.

The General Assembly of North Carolina do enact:

Sec. 1, Ch. 52, Public Laws, 1931, amended, to increase membership of State Board of Examiners of Plumbing and Heating Contractors.

SECTION 1. That Section one of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one be and the same is hereby amended by striking out the word "five" in line three and inserting in lieu thereof the word "seven" and by striking out the period after the word "contractor" in line ten and inserting a comma, and by adding the following: "One member from the Division of Public Health of the Greater University of North Carolina, and one member to be a licensed Air Conditioning Contractor."; and amend further by adding the following sentence at the end of Section one: "Whenever the word "Board" is used in this Act, it shall be deemed and held to refer to the State Board of Examiners of Plumbing and Heating Contractors."

"Board" defined.

Sec. 3, amended, to repeal power of Board to administer oaths, take testimony, etc.

SEC. 2. That Section three of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one be and the same is hereby amended by striking out all of said section after the word "actions" in line nine, and by striking out the comma and inserting a period in lieu thereof after the word "actions" in line nine.

Sec. 6, amended.

SEC. 3. That Section six of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one be stricken out and the following section inserted in lieu thereof:

"Plumbing" defined.

"For the purpose of this Act plumbing shall be deemed and held to include the plumbing system of a building consisting of water supply distributing pipes, the fixtures and fixture traps, soil, waste and vent pipes, all with their devices, appurtenances and connections, and all within, adjacent to or connected with the building, however shall not include the repair or installation of water supply pipe from the street to plumbing fixtures not connected with the sewerage or ventilating systems or to the repair or replacement of outside water faucets. For the

"Heating" defined.

purpose of this Act heating shall be deemed and held to include all heating systems of a building requiring the use of high or low pressure steam, vapor, hot water, warm or conditioned air, and all piping, ducts, connections or mechanical equipment appurtenant thereto within, adjacent to or connected with the

building. Any person, firm or corporation, who, for a valuable consideration, installs, alters or restores or offers to install, alter or restore either plumbing or heating, or both, as defined in this Act, shall be deemed to be engaged in the business of either plumbing or heating contracting, or both, as the case may be. All persons, firms or corporations, whether resident or non resident of the State of North Carolina, before engaging in either the plumbing or heating contracting business, or both, as defined in this Act, shall first apply to the State Board of Examiners of Plumbing and Heating Contractors for examination and shall procure a license. Each application shall be accompanied by a certified check in the amount of the annual license fee required by this Act. In order to promote the health, comfort, and safety of the people of the State of North Carolina in the regulation of the business of plumbing or heating contracting, the board shall give each applicant for license an examination designed to ascertain the technical and practical knowledge of the applicant concerning the analysis of plans and specifications, estimating costs, construction, fundamentals of design and installation, sanitation, fire hazards, and related subjects. Regular examinations shall be given by the board in the months of February and August of each year; and additional examinations may be given at such other time as the board may deem necessary. Any person, firm or corporation may demand in writing a special examination, and upon payment by the applicant of the cost of holding such examination and the deposit of the amount of the annual license fee, the board in its discretion will fix a time and place for such examination to be given, not less than ten nor more than thirty days from receipt of the written demand and the deposit of the cost. As the result of such examination, all applicants found by the board to be qualified to engage in and carry on the business of either plumbing or heating contracting, or both, as defined in this Act, shall be entitled to and shall receive a license to do so. The said board shall have authority to issue a limited heating license to any applicant who establishes to the satisfaction of the board, by such examination, that he is qualified to engage in the business of heating contracting by the installation, alteration and renovation of any one or more types of heating systems, but such limited license shall authorize the licensee to engage in the heating contracting business only to the extent and under the conditions recited in the license. The board shall, within thirty days after the ratification of this Act, meet and classify the business of heating contracting into the following groups for the purpose of issuing limited licenses as provided in this Act: Group Number one to consist of the installation, alteration or restoration of all heating systems which involve the use of

"Engaging in business of plumbing or heating" defined.

Application for examination and license.

License fee to accompany application.

Examination of applicants for licenses.

Time of examinations.

Procedure for special examinations.

Issuance of license to qualified applicants.

Issuance of limited heating licenses.

Classification of groups for issuance of limited licenses.

Group No. 1.

high or low pressure steam, vapor, hot water and all piping, ducts, connections or mechanical equipment appurtenant thereto, within, adjacent or connected with a building; group number two to consist of the installation, alteration or restoration of all air conditioning systems which provide conditioned air for comfort cooling by the lowering of temperature within a building, including all parts and accessories necessary thereto.

Group No. 2.

Limited heating licenses to licensees under Ch. 52, Public Laws, 1931.

Persons, firms or corporations now holding licenses for heating contracting in accordance with the provisions of Chapter fifty-two, Public Laws of one thousand nine hundred and thirty-one as amended, shall be granted, without examination, a limited heating license under group number one as classified under this section. Section ten of this Act shall not apply to any person, firm or corporation engaged in the business of heating contracting as classified under group number two as defined in this section prior to January first one thousand nine hundred and forty. Employees who work under the supervision and jurisdiction of a person, firm or corporation, licensed in accordance with the provisions of this Act, shall not be required to apply for and obtain a license while so engaged. That the requirements of this Act shall apply only to persons, firms or corporations engaged in the business of either plumbing or heating contracting, or both, in cities or towns having a population of more than thirty-five hundred."

License not required of employees of licensees.

Application of Act.

Sec. 7, amended.

SEC. 4. That Section seven of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one be stricken out and the following section be inserted in lieu thereof:

Annual license fee based on population of cities or towns.

"All persons, firms, or corporations engaged in the business of either plumbing or heating contracting, or both, in cities or towns of ten thousand inhabitants or more shall pay an annual license fee of fifty dollars, and in cities or towns of more than thirty-five hundred and less than ten thousand inhabitants an annual license fee of twenty-five dollars. In the event the board refuses to license an applicant, the license fee deposited shall be returned by the board to the applicant. All licenses shall expire on the last day of December in each year following their issuance or renewal. It shall be the duty of the secretary and treasurer to cause to be mailed to every licensee registered hereunder notice to his last known address of the amount of fee required for renewal of license, such notice to be mailed at least one month in advance of the expiration of said license. In the event of failure on the part of any person, firm or corporation to renew the license certificate annually and pay the fee therefor during the month of January in each year, the board shall increase said license fee ten per centum for each month or fraction of a month that payment is delayed; *provided* that the penalty for nonpayment shall not ex-

Expiration date of licenses.

Notice of renewal fee.

Penalty for failure to renew license.

Limitation on penalty.

ceed the amount of the annual fee, and *provided, further* that no penalty will be imposed if one half of the annual license fee is paid in January and the remaining one half in June of each year."

SEC. 5. That Section eight of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one be stricken out and the following section be inserted in lieu thereof: Sec. 8, amended.

"The board shall have power to revoke or suspend the license of any plumbing or heating contractor, or both, who is guilty of any fraud or deceit in obtaining a license, or who fails to comply with any provision or requirement of this Act, or for gross negligence, incompetency, or misconduct, in the practice of or in carrying on the business of either a plumbing or heating contractor, or both, as defined in this Act. Any person may prefer charges of such fraud, deceit, gross negligence, incompetency, misconduct, or failure to comply with any provision or requirement of this Act, against any plumbing or heating contractor, or both, who is licensed under the provisions of this Act. All of such charges shall be in writing and verified by the complainant, and such charges shall be heard and determined by the board within ninety days after the same are received by it. A time and place for such hearing shall be fixed by the board and a copy of said charges together with notice of the time and place of hearing, shall be furnished to the person, firm, or corporation accused at least thirty days before the date fixed for the hearing. At said hearing the person accused shall have the right to appear personally, or by counsel, and be heard in defense of said charges. Upon the conclusion of said hearing, if the board finds that the license of the accused person should be revoked or suspended for any one or more of the causes set forth in this section, the board shall enter upon its records a resolution revoking or suspending the license and furnish a copy of said resolution to the accused. Any person, firm, or corporation whose license shall be revoked or suspended by the board shall have the right to appeal to the Superior Court of the county in which the accused maintains his or its principal place of business, said appeal to be perfected within thirty days after receipt of the board's resolution by the accused, but not thereafter."

Revocation or suspension of license for cause.

Preferred charges must be in writing and verified.

Hearing before Board.

Time and place.

Notice.

Rights of accused.

Resolution by Board revoking or suspending license.

Right of appeal to Superior Court.

SEC. 6. That Section ten of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one be stricken out and the following section be inserted in lieu thereof: Sec. 10, amended.

"Any person, firm or corporation who shall engage in or offer to engage in, or carry on the business of either plumbing or heating contracting, or both, as defined in Section six of

Violations enumerated.

this Act, without first having been licensed to engage in such business, or businesses, as required by the provisions of this Act; or any person, firm or corporation holding a limited heating license under the provisions of this Act who shall practice or offer to practice or carry on any type of heating contracting not authorized by said limited license; or any person, firm or corporation who shall give false or forged evidence of any kind to the board, or any member thereof, in obtaining a license, or who shall falsely impersonate any other practitioner of like or different name, or who shall use an expired or revoked license, or who shall violate any of the provisions of this Act, shall be guilty of a misdemeanor and upon conviction fined not less than one hundred dollars or imprisoned for not more than three months, or both, in the discretion of the court. Employees, while working under the supervision and jurisdiction of a person, firm or corporation licensed in accordance with the provisions of the Act, shall not be construed to have engaged in the business of either plumbing or heating contracting, or both."

Made misdemeanor.

Exception as to employees of licensees.

Sec. 11, as to licensing of nonresident contractors repealed.

SEC. 7. That Section eleven of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one be stricken out and the remaining Sections twelve and thirteen renumbered as Sections eleven and twelve respectively.

Sec. 12, amended.

SEC. 8. That Section twelve of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one be stricken out and the following section be inserted in lieu thereof:

License required of only one member of partnership or corporation.

"A corporation or partnership may engage in the business of either plumbing or heating, or both, provided one or more persons connected with such corporation or partnership is registered and licensed as herein required; and provided such licensed person shall execute all contracts, exercise general supervision over the work done thereunder and be responsible for compliance with all the provisions of this Act."

Sec. 13, amended, as to fee for contractors in small towns.

SEC. 9. That Section thirteen of Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one, as amended, be amended by striking out all of said section after the words "State Treasurer" in line twelve.

New section added.

SEC. 10. That Chapter fifty-two of the Public Laws of one thousand nine hundred and thirty-one, as amended, be amended by adding a new section to be known as twelve-A, which shall read as follows: "If any section or part of section of this Act, as amended, shall be declared unconstitutional for any reason, the remaining sections or parts of sections shall not be affected thereby.

Partial invalidity section.

SEC. 11. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 12. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 358 CHAPTER 225

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED EIGHTY-ONE OF THE CONSOLIDATED STATUTES RELATING TO THE PAYMENT FOR DAMAGE CAUSED BY DOGS TO SHEEP AND TURKEYS OR OTHER PROPERTY IN CABARRUS COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand six hundred eighty-one of the Consolidated Statutes be, and the same is hereby amended by adding at the end of said section the following: "*Provided*, that Cabarrus County shall not be liable, or required to pay damages, for injury to person or for sheep and turkeys or any other property destroyed, or injured by dogs in said county." C. S. 1681, amended as to payment for damages by dogs in Cabarrus County.

SEC. 2. This Act, however, shall not apply to pending claims for which Cabarrus County may be liable under the law as it heretofore existed. Pending claims unaffected.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 376 CHAPTER 226

AN ACT TO AMEND SECTION TEN OF CHAPTER EIGHTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-ONE, RELATING TO THE BURKE COUNTY CRIMINAL COURT.

The General Assembly of North Carolina do enact:

SECTION 1. That Section ten of Chapter eighty-nine of the Public Laws of one thousand nine hundred and thirty-one, be, and the same is hereby amended by striking out all of Subsec- Ch. 89, Public Laws, 1931, amended.

Preliminary hearings of felonies by Burke County Criminal Court.

tion "(e)" and inserting the following in lieu thereof: "(e) The County Criminal Court shall have concurrent preliminary jurisdiction over all offenses whereof exclusive jurisdiction is not given to said court, and shall hear and determine warrants charging such offenses, and in the event that the court finds probable cause, shall bind the defendant over to the Superior Court, requiring such bond as the court may fix for the appearance of the defendant at the next ensuing term of the Superior Court of said county for the trial of criminal causes."

Preliminary hearings of misdemeanors by Justices of Peace.

SEC. 2. That in all offenses below the grade of felony whereof a Justice of the Peace does not have final jurisdiction, warrant for the arrest of the defendant may be issued by a Justice of the Peace and a preliminary hearing had before such Justice of the Peace, and in the event the Justice of the Peace shall find probable cause, shall bind the defendant over to the County Criminal Court, requiring such bond as the Justice of the Peace may fix for the appearance of the defendant at the next ensuing term of the County Criminal Court.

Application.

SEC. 3. That this Act shall apply to Burke County only.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 381 CHAPTER 227

AN ACT TO AMEND CHAPTER TWO HUNDRED SEVENTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, REGARDING THE ORGANIZATION OF DRAINAGE DISTRICTS IN HALIFAX AND NORTHAMPTON COUNTIES.

The General Assembly of North Carolina do enact:

Ch. 278, Public Laws, 1937, amended, to authorize advancements by Halifax and Northampton Counties of certain costs in connection with establishment of drainage districts, etc.

SECTION 1. That Chapter two hundred seventy-eight of the Public Laws of one thousand nine hundred thirty-seven, as amended by an Act ratified on the first day of February, one thousand nine hundred thirty-nine, entitled "An Act to amend Chapter two hundred seventy- eight of the Public Laws of one thousand nine hundred thirty-seven relative to drainage districts in Edgecombe County", be, and the same hereby is, amended by adding a new section to Chapter two hundred seventy-eight of the Public Laws of one thousand nine hundred thirty-seven, as amended, to be designated as Section three, as follows:

"SEC. 3. That this Act shall be applicable to Halifax and Northampton Counties."

That Section three of said Act be renumbered Section four.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 427 CHAPTER 228

AN ACT TO AMEND SECTION ONE THOUSAND SIX HUNDRED NINETY-FIVE RELATING TO THE ACQUISITION AND CONDEMNATION OF PROPERTY BY ELECTRIC TELEGRAPH AND POWER COMPANIES, AND TO AMEND SECTION ONE THOUSAND SEVEN HUNDRED AND SIX OF THE CONSOLIDATED STATUTES, VOLUME ONE, ONE THOUSAND NINE HUNDRED NINETEEN, RELATIVE TO EMINENT DOMAIN.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand six hundred ninety-five of the Consolidated Statutes, Volume one, one thousand nine hundred nineteen, be amended by adding before the word "Any" in line one, the following: "Any person, firm or co-partnership operating electric power lines for lights or power, or authorized by law to establish such lines, or." C. S., 1919, Vol. 1, section 1695, amended. Construction of power lines along railroads and public highways.

SEC. 2. That Section one thousand six hundred ninety-six of the Consolidated Statutes, Volume one, one thousand nine hundred nineteen, be amended by inserting between the word "corporation" and the word "which" in line two, the following: "person, firm or co-partnership." C. S., 1919, Vol. 1, section 1696, providing for exercise of right of eminent domain, amended.

SEC. 3. That all the rights, powers and obligations given, extended to, or that may be exercised by any corporation or incorporated company under Chapter thirty-two of the Consolidated Statutes, entitled "Electric Telegraph and Power Companies," shall be extended to and likewise be exercised and are hereby granted unto all persons, firms or co-partnerships engaged in or authorized by law to engage in the business therein described. Such persons, firms, co-partnerships and corporations engaging in such business shall be subject to the provisions and requirements of the public laws which are applicable to others engaged in the same kind of business. Powers granted corporations under C. S., Ch. 32, exercisable by persons, firms or co-partnerships.

C. S., 1919, Vol. 1, section 1706, amended.

SEC. 4. That Subsection three of Section one thousand seven hundred and six of the Consolidated Statutes, Volume one, one thousand nine hundred nineteen, be stricken out and the following substituted in lieu thereof: "Person or persons, firms, corporations or co-partnerships operating or authorized by law to operate electric light plants, or distributing electric current for lights or power, or for the purpose of constructing wires, poles or other necessary things, and for such purposes or things.

Exercise of power of eminent domain by persons, firms, etc. operating plants for distribution of current, etc.

Conflicting laws repealed.

SEC. 5. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 6. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 506 CHAPTER 229

AN ACT PROVIDING FOR VOLUNTARY APPRENTICESHIP.

The General Assembly of North Carolina do enact:

Program of voluntary apprenticeship provided.

SECTION 1. Purpose. The purposes of this Act are: To open to young people the opportunity to obtain training that will equip them for profitable employment and citizenship; to set up, as a means to this end, a program of voluntary apprenticeship under approved apprentice agreements providing facilities for their training and guidance in the arts and crafts of industry and trade, with parallel instruction in related and supplementary education; to promote employment opportunities for young people under conditions providing adequate training and reasonable earnings; to relate the supply of skilled workers to employment demands; to establish standards for apprentice training; to establish an Apprenticeship Council and local and State joint apprenticeship committees to assist in effectuating the purposes of this Act; to provide for a Director of Apprenticeship within the Department of Labor; to provide for reports to the legislature and to the public regarding the status of apprentice training in the State; to establish a procedure for the determination of apprentice agreement controversies; and to accomplish related ends.

Purpose.

Appointment of Apprenticeship Council.

Members.

Ex-officio member.

Terms of office.

SEC. 2. Apprenticeship Council. The Commissioner of Labor shall appoint an Apprenticeship Council, composed of three representatives each from employer and employee organizations respectively. The State official who has been designated by the State Board for Vocational Education as being in charge of trade and industrial education shall ex officio be a member of said council, without vote. The terms of office of the members of the Apprenticeship Council first appointed by the Commissioner

of Labor shall expire as designated by the commissioner at the time of making the appointment: One representative each of employers, employees, being appointed for one year; one representative each of employers, employees, being appointed for two years, and one representative each of employers and employees for three years. Thereafter, each member shall be appointed for a term of three years. Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of said term. Each member of the council not otherwise compensated by public monies, shall be reimbursed for transportation and shall be paid not more than ——— per day for each day spent in attendance at meetings of the Apprenticeship Council.

Vacancy appointments.

Compensation of members.

The Apprenticeship Council shall meet at the call of the Commissioner of Labor and shall aid him in formulating policies for the effective administration of this Act. Subject to the approval of the commissioner, the Apprenticeship Council shall establish standards for apprentice agreement which in no case shall be lower than those prescribed by this Act, shall issue such rules and regulations as may be necessary to carry out the intent and purposes of said Act, and shall perform such other functions as the commissioner may direct. Not less than once a year the Apprenticeship Council shall make a report through the Commissioner of Labor of its activities and findings to the Legislature and to the public.

Meetings of Council.

Powers and duties of Council.

Reports by Council.

SEC. 3. Director of Apprenticeship. The Commissioner of Labor is hereby directed to appoint a Director of Apprenticeship which appointment shall be subject to the confirmation of the State Apprenticeship Council by a majority vote. The Commissioner of Labor is further authorized to appoint and employ such clerical, technical, and professional help as shall be necessary to effectuate the purposes of this Act.

Appointment of Director of Apprenticeship.

Appointment of assistants.

SEC. 4. Powers and Duties of Director of Apprenticeship. The director, under the supervision of the Commissioner of Labor and with the advice and guidance of the Apprenticeship Council is authorized to administer the provisions of this Act; in cooperation with the Apprenticeship Council and local and State joint apprenticeship committees, to set up conditions and training standards for apprentice agreements, which conditions or standards shall in no case be lower than those prescribed by this Act; to act as secretary of the Apprenticeship Council and of each State Joint Apprenticeship Committee; to approve for the council if in his opinion approval is for the best interest of the apprentice, any apprentice agreement which meets the standards established under this Act; to terminate or cancel any apprentice agreement in accordance with the provisions of such agreement; to keep a record of apprentice agreements and their disposition; to issue certificates of completion of apprenticeship; and to perform such other duties as are necessary to carry out the intent of this

Powers and duties of Director of Apprenticeship.

Act: *Provided,* that the administration and supervision of related and supplemental instruction for apprentices, coordination of instruction with job experiences, and the selection and training of teachers and coordinators for such instruction shall be the responsibility of State and local boards responsible for vocational education.

Appointment of local Joint Apprenticeship Committees authorized.

SEC. 5. Local and State Joint Apprenticeship Committees. A local Joint Apprenticeship Committee may be appointed, in any trade or group of trades in a city or trade area, by the Apprenticeship Council, whenever the apprentice training needs of such trade or group of trades justifies such establishment: *Provided,* that when a State Joint Apprenticeship Committee in any trade or group of trades shall have been established, as hereinafter authorized, such State Committee shall thereafter have the power of appointment of local joint apprenticeship committees in the trade or group of trades which it represents. Such local Joint Apprenticeship Committee shall be composed of an equal number of employer and employee representatives chosen from names submitted by the respective local employer and employee organization in such trade or group of trades. In a trade or group of trades in which there is no bona fide local employer or employee organization, the committee shall be appointed from persons known to represent the interests of employers and of employees respectively. The function of a local Joint Apprenticeship Committee shall be: To cooperate with school authorities in regard to the education of apprentices; in accordance with the standards set up by the Apprenticeship Committee for the same trade or group of trades, where such committee has been appointed, to work in an advisory capacity with employers and employees in matters regarding schedule of operations, application of wage rates, and working conditions for apprentices and to specify the number of apprentices which shall be employed locally in the trade under apprentice agreements under the Act; and to adjust apprenticeship disputes, subject to the approval of the director. Until the appointment of a State Joint Apprenticeship Committee for any trade or group of trades, as hereinafter provided, the local Joint Apprenticeship Committee for that trade or group of trades shall, for the city or trade area for which it is appointed, exercise the functions of the State Joint Apprenticeship Committee for the said trade or group of trades which it represents.

Representation on local Joint Apprenticeship Committee.

Functions of local Committees.

Appointment of State Joint Apprenticeship Committee authorized.

When two or more local Joint Apprenticeship Committees have been established in the State for a trade or group of trades, or at the request of any trade or group of trades, the Apprenticeship Council may appoint a State Joint Apprenticeship Committee for such trade or group of trades, composed of an equal number of employer and employee representatives chosen from names submitted by the respective employer and employee organization. In a trade or group of trades in which there is no bona fide employer or employee organization, the Apprenticeship Council may appoint

Representation on State Committee.

such a committee from persons known to represent the interests of employers and employees respectively. The functions of a State Joint Apprenticeship Committee shall be: To coordinate the activities of local Joint Apprenticeship Committees in the trade or group of trades which it represents; to ascertain the prevailing rate for journeymen in the respective trade areas within the State in such trade or trades and specify the graduated scale of wages applicable to apprentices in such trade or trades in each such area; to ascertain employment needs in such trade or trades and specify the appropriate current ratio of apprentices to journeymen; and to make recommendations for the general good of apprentices engaged in the trade or trades represented by the committee. The member of a State Joint Apprenticeship Committee shall be reimbursed for transportation and shall be paid not more than ——— per day for each day spent in attendance at meetings of the committee.

Functions of State Committee.

Compensation of members of State Committee.

SEC. 6. Definition of an Apprentice. The term "Apprentice", as used herein, shall mean a person at least sixteen years of age who is covered by a written agreement, with an employer, an association of employers, or an organization of employees acting as employer's agent, and approved by the Apprenticeship Council; which apprentice agreement provides for not less than four thousand hours of reasonably continuous employment for such person for his participation in an approved schedule of work experience and for at least one hundred forty-four hours per year of related supplemental instruction. The required hours for apprenticeship agreements may vary in accordance with standards adopted by local or State Joint Apprenticeship Committees, subject to approval of the State Apprenticeship Council and Commissioner of Labor.

"Apprentice" defined.

Apprenticeship agreements.

SEC. 7. Contents of Agreement. Every apprentice agreement entered into under this Act shall contain:

Contents of apprenticeship agreements.

(1) The names of the contracting parties.

(2) The date of birth of the apprentice.

(3) A statement of the trade, craft, or business which the apprentice is to be taught, and the time at which the apprenticeship will begin and end.

(4) A statement showing the number of hours to be spent by the apprentice in work and the number of hours to be spent in related and supplemental instruction, which instruction shall be not less than one hundred forty-four hours per year: *Provided*, that in no case shall the combined weekly hours of work and of required related and supplemental instruction of the apprentice exceed the maximum number of hours of work prescribed by law for a person of the age and sex of the apprentice.

(5) A statement setting forth a schedule of the processes in the trade or industry division in which the apprentice is to be taught and the approximate time to be spent at each process.

(6) A statement of the graduated scale of wages to be paid the apprentice and whether the required school time shall be compensated.

(7) A statement providing for a period of probation of not more than five hundred hours of employment and instruction extending over not more than four months, during which time the apprentice agreement shall be terminated by the director at the request in writing of either party, and providing that after such probationary period the apprentice agreement may be terminated by the director by mutual agreement of all parties thereto, or cancelled by the director for good and sufficient reason. The council at the request of a Joint Apprentice Committee may lengthen the period of probation.

(8) A provision that all controversies or differences concerning the apprentice agreement which cannot be adjusted locally in accordance with Section five shall be submitted to the director for determination as provided for in Section ten.

(9) A provision that an employer who is unable to fulfill his obligation under the apprentice agreement may with the approval of the director transfer such contract to any other employer: *Provided,* that the apprentice consents and that such other employer agrees to assume the obligations of said apprentice agreement.

(10) Such additional terms and conditions as may be prescribed or approved by the director not inconsistent with the provisions of this Act.

Approval of apprenticeship agreements by director.

Execution of agreements.

SEC. 8. Approval of Apprentice Agreements: Signatures. No apprentice agreement under this Act shall be effective until approved by the director. Every apprentice agreement shall be signed by the employer, or by an association of employers or an organization of employees as provided in Section nine, and by the apprentice, and if the apprentice is a minor, by the minor's father: *Provided,* that if the father be dead or legally incapable of giving consent or has abandoned his family then by the minor's mother; if both father and mother be dead or legally incapable of giving consent, then by the guardian of the minor. Where a minor enters into an apprentice agreement under this Act for a period of training extending into his majority, the apprentice agreement shall likewise be binding for such a period as may be covered during the apprentice's majority.

Rotation of employment.

SEC. 9. Rotation of Employment. For the purpose of providing greater diversity of training or continuity of employment, any apprentice agreement made under this Act may in the dis-

cretion of the Director of Apprenticeship be signed by an association of employers or an organization of employees instead of by an individual employer. In such a case, the apprentice agreement shall expressly provide that the association of employers or organization of employees does not assume the obligation of an employer but agrees to use its best endeavors to procure employment and training for such apprentice with one or more employers who will accept full responsibility, as herein provided, for all the terms and conditions of employment and training set forth in said agreement between the apprentice and employer association or employee organization during the period of each such employment. The apprentice agreement in such a case shall also expressly provide for the transfer of the apprentice, subject to the approval of the director, to such employer or employers who shall sign in written agreement with the apprentice, and if the apprentice is a minor with his parent or guardian, as specified in Section eight, contracting to employ said apprentice for the whole or a definite part of the total period of apprenticeship under the terms and conditions of employment and training set forth in the said agreement entered into between the apprentice and employer association or employee organization.

Conditions of agreements.

SEC. 10. Settlement of Controversies or Complaints. Under the complaint of any interested person or upon his own initiative, the director may investigate to determine if there has been a violation of the terms of an apprentice agreement, made under this Act, and he may hold hearings, inquiries, and other proceedings necessary to such investigations and determination. The parties to such agreement shall be given a fair and impartial hearing, after reasonable notice in writing thereof. All such hearings, investigations and determinations shall be made under authority of reasonable rules and procedures prescribed by the Apprenticeship Council, subject to the approval of the Commissioner of Labor.

Settlement of controversies or complaints.

Hearings.

The determination of the director shall be filed with the commissioner. If no appeal therefrom is filed with the commissioner within ten days after the date thereof, as herein provided, such determination shall become the order of the commissioner. Any person aggrieved by any determination or action of the commissioner, may appeal therefrom to the council, who shall hold a hearing thereon after due notice in writing to the interested parties. Any party to an apprentice agreement aggrieved by an order or decision of the council may appeal to the courts or questions of law. The decision of the council shall be final on the questions of fact. The decision of the council shall be conclusive if such appeal therefrom shall not be filed within thirty days after the date of such order or decision.

Determination of cause.

Right of appeal to Council.

Hearing by Council.

Right of appeal to courts.

Decision of council final if no appeal made within 30 days.

No person shall institute any action for the enforcement of any apprentice agreement, or damages for the breach of any appren-

Jurisdiction of courts.

tice agreement, made under this Act, unless he shall first have exhausted all administrative remedies provided by this section.

Application of Act.

SEC. 11. Limitation. Nothing in this Act or in any apprentice agreement approved under this Act shall operate to invalidate any apprenticeship provision in any collective agreement between employers and employees, setting up higher apprenticeship standards.

Appropriation for purposes of Act.

SEC. 12. Appropriation. That there is hereby appropriated annually the sum of four thousand five hundred dollars ($4,500.00) from the general fund of the State for the purpose of carrying out the provisions of this Act.

Conflicting laws repealed.

SEC. 13. Repeal. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Partial invalidity section.

SEC. 14. Separability. If any provision of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act, and the application of such provision to other person and circumstances, shall not be affected thereby.

SEC. 15. Ratification. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 614 CHAPTER 230

AN ACT TO AMEND CHAPTER THREE HUNDRED EIGHTEEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-FIVE AS AMENDED, RELATING TO THE PRACTICE OF GENERAL CONTRACTING.

The General Assembly of North Carolina do enact:

Ch. 318, Public Laws, 1925, amended to conform with provisions of Federal Highway Act, and Federal regulations, etc. as to contracts financed by Federal road funds.

SECTION 1. That Chapter three hundred and eighteen of the Public Laws of one thousand nine hundred and twenty-five, as amended by Chapter sixty-two of the Public Laws of one thousand nine hundred and thirty-one, as amended by Chapter four hundred and twenty-nine of the Public Laws of one thousand nine hundred and thirty-seven, be further amended by adding a new section at the end thereof to read as follows:

"SEC. Nothing in this Act shall operate to prevent the State Highway and Public Works Commission from complying with any Act of Congress and any rules and regulations promulgated by the United States Secretary of Agriculture for carrying out the provisions of the Federal Highway Act, or shall apply to any person, firm or corporation proposing to submit a bid or enter into

contract for any work to be financed in whole or in part with Federal aid road funds in such manner as will conflict with any Act of Congress or any such rules and regulations of the United States Secretary of Agriculture."

SEC. 2. That all laws or clauses of laws in conflict with this Act are hereby modified to the extent to make this Act controlling. Modification of conflicting laws.

SEC. 3. This Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 687 CHAPTER 231

AN ACT TO AMEND THE MUNICIPAL FINANCE ACT, ONE THOUSAND NINE HUNDRED AND TWENTY-ONE, AS AMENDED, THE COUNTY FINANCE ACT, AS AMENDED, THE LOCAL GOVERNMENT ACT, AS AMENDED, AND THE ACT PROVIDING FOR FUNDING AND REFUNDING DEBTS OF LOCAL UNITS OF GOVERNMENT OTHER THAN COUNTIES, CITIES AND TOWNS, AS AMENDED, RELATING TO FUNDING AND REFUNDING OF NOTES AND BONDS.

The General Assembly of North Carolina do enact:

SECTION 1. That the Municipal Finance Act, one thousand nine hundred and twenty-one, being Sub-chapter three of Chapter fifty-six of the Consolidated Statutes, as amended, be and the same is hereby amended as follows: C. S., Ch. 56, sub-chapter 3, Municipal Finance Act, amended.

(a) Amend Section two thousand nine hundred and thirty-three by adding the following at the end thereof: C. S. 2933, amended.

"In addition to the foregoing powers, a municipality may borrow money for the purpose of refunding or funding the principal or interest of bonds due or to become due within two months and not otherwise adequately provided for, and such loans shall be paid not later than the end of the next succeeding fiscal year following the fiscal year within which they are made: *Provided, however*, if such loans, or any renewals thereof, shall not be paid within the fiscal year in which the same are made, the governing body shall in the next succeeding fiscal year levy and collect a tax ad valorem upon the taxable property in the municipality sufficient to pay the principal and interest thereof." Funding or refunding of bonds due within two months. Tax levy authorized.

(b) Amend Section two thousand nine hundred and thirty-five by adding the following at the end thereof: C. S. 2935, amended.

Contents of resolution authorizing issuance of notes.

"The resolution authorizing issuance of notes for money borrowed under Section two thousand nine hundred and thirty-three of this Act for the purpose of refunding or funding principal or interest of bonds shall contain a description of the bonds the principal or interest of which is to be so paid, including the respective amounts of such principal or interest and the date or dates on which the same is due and payable."

C. S. 2937, subsection 2, amended to extend date of funding or refunding accrued interest.

(c) Amend Subsection two of Section two thousand nine hundred and thirty-seven by striking out in the last sentence of said subsection the words "One thousand nine hundred and thirty-eight" and inserting in lieu thereof the words "One thousand nine hundred and forty."

C. S. 2950, amended to provide time within which bonds may be issued.

(d) Amend Section two thousand nine hundred and fifty by substituting a colon for the period at the end thereof and adding the following:

"*Provided, however,* that funding or refunding bonds heretofore or hereafter authorized may be issued at any time within five years after the ordinance takes effect."

Ch. 81, Public Laws, 1927, County Finance Act, amended.

SEC. 2. That the County Finance Act, being Chapter eighty-one of the Public Laws of one thousand nine hundred and twenty-seven, as amended, be and the same is hereby amended as follows:

Sec. 5, amended to provide for funding or refunding of bonds due within four months.

(a) Amend Section five by adding at the end thereof the following:

"In addition to the foregoing powers, a county may borrow money for the purpose of refunding or funding the principal or interest of bonds due or to become due within four months and not otherwise adequately provided for, and such loans shall be paid not later than the end of the next succeeding fiscal year following the fiscal year within which they are made: *Provided, however,* if such loans, or any renewals thereof, shall not be paid within the fiscal year in which the same are made, the governing body shall in the next succeeding fiscal year levy and collect a tax ad valorem upon the taxable property in the county sufficient to pay the principal and interest thereof."

Payment of loans.

Tax levy authorized.

Section 6, amended.

(b) Amend Section six by adding at the end thereof the following:

Contents of resolution authorizing issuance of notes.

"The resolution authorizing issuance of notes for money borrowed under Section five of this Act for the purpose of refunding or funding principal or interest of bonds shall contain a description of the bonds the principal or interest of which is to be so paid, including the respective amounts of such principal or interest and the date or dates on which the same is due and payable."

Section 8, amended to extend date of funding or refunding accrued interest.

(c) Amend clause (j) of Section eight by striking out in the last sentence thereof the words "One thousand nine hundred

thirty-eight" and inserting in lieu thereof the words "One thousand nine hundred forty."

Section 32, amended to provide time within which bonds may be issued.

(d) Amend Section thirty-two by substituting a colon for the period at the end thereof and adding the following:

"*Provided, however*, that funding or refunding bonds heretofore or hereafter authorized may be issued at any time within five years after the order takes effect."

Ch. 60, Public Laws, 1931, Local Government Act, amended.

SEC. 3. That the Local Government Act, being Chapter sixty of the Public Laws of one thousand nine hundred and thirty-one, as amended, be and the same is hereby amended as follows:

Section 18, amended as to sale of bonds and notes of local units.

(a) Amend Section eighteen by substituting a comma for the period at the end of the first sentence and inserting immediately after such comma the words "or, if a notice of sale of notes so provides, to the bidder offering to purchase the notes at the lowest interest cost to the unit, such cost to be determined by deducting the total amount of the premium bid from the aggregate amount of interest upon the notes until their maturity."

Section 75-E, amended, as to date.

(b) Amend Section seventy-five-E by striking out in the first sentence thereof the words "incurred before July first, one thousand nine hundred and thirty-three."

Ch. 257, Public Laws, 1933, amended to omit proviso limiting application of sections to indebtedness incurred prior to July 1, 1933.

SEC. 4. That Chapter two hundred and fifty-seven of the Public Laws of one thousand nine hundred and thirty-three, as amended, be and the same is hereby amended as follows:

(a) Amend Section one by striking out at the end of the first sentence thereof the following:

"*Provided*, the indebtedness evidenced by said notes or bonds was incurred before July first, one thousand nine hundred and thirty-three."

(b) Amend Section four by striking out in the first sentence thereof the following: "incurred before July first, one thousand nine hundred and thirty-three."

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 758 **CHAPTER 232**

AN ACT TO AUTHORIZE THE DEPARTMENT OF CONSERVATION AND DEVELOPMENT TO DEVELOP CERTAIN SWAMP LAND AS A GAME REFUGE AND PUBLIC HUNTING GROUND.

Preamble: Development of lands owned by State Board of Education as game refuge and hunting ground.

WHEREAS, certain swamp land now owned by the State Board of Education in Pender and Onslow Counties might be developed as a game refuge and public hunting ground in furtherance of the best interest of the citizens of North Carolina; *Now, therefore,*

The General Assembly of North Carolina do enact:

State Board of Education authorized to transfer lands, Pender and Onslow Counties, for development as game refuge, etc.

SECTION 1. That the State Board of Education be authorized and empowered in its discretion to transfer or lease to the Department of Conservation and Development that certain swamp land now owned by the State Board of Education in Pender and Onslow Counties, known as Holly Shelter Pocosin, for the purpose of development, supervision and administration as a game refuge, or game preserve, and as a public hunting ground, in accordance with the provisions of the laws of North Carolina relating to game refuges, game preserves and public hunting grounds.

Reversion of property upon nonuse for purposes of transfer.

SEC. 2. That in the event the above described swamp lands, known as Holly Shelter Pocosin, should hereafter cease to be used as a game refuge, or game preserve, and public hunting ground, the Department of Conservation and Development shall lose all of the rights conferred by this Act, and the said swamp lands shall revert to the State Board of Education.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 767 **CHAPTER 233**

AN ACT SUPPLEMENTAL TO SENATE BILL NUMBER FORTY-SEVEN, ENTITLED "AN ACT TO AMEND CHAPTER THREE HUNDRED FORTY-NINE, OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO 'THE LAW ENFORCEMENT OFFICERS' BENEFIT FUND'", RATIFIED FEBRUARY FIRST, ONE THOUSAND NINE HUNDRED THIRTY-NINE.

The General Assembly of North Carolina do enact:

S. B. 47, Ch. 6, Public Laws, 1939, amended.

SECTION 1. That Section three, Subsection (g) of Senate Bill Number forty-seven, entitled "An Act to amend Chapter three hundred forty-nine of the Public Laws of one thousand nine hundred thirty-seven, relating to 'The Law Enforcement Officers' benefit fund'", ratified February first, one thousand nine hundred thirty-nine, be and the same is hereby amended by adding at the end of said subsection the following: "And the board may also have the authority to invest any funds not immediately needed in bonds of the State of North Carolina, United States Government, or in certificates of deposit in any bank or trust company authorized to do business in North Carolina not to exceed the sum of five thousand dollars ($5,000.00) in any one bank or trust company."

Investment of Law Enforcement Officers' Benefit and Retirement Funds in State or Federal bonds, etc.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 768 **CHAPTER 234**

AN ACT TO APPROPRIATE FIFTY THOUSAND DOLLARS FOR EACH YEAR OF THE BIENNIUM ONE THOUSAND NINE HUNDRED THIRTY-NINE — ONE THOUSAND NINE HUNDRED FORTY-ONE TO THE DEPARTMENT OF AGRICULTURE TO BE EXPENDED FOR THE PURPOSE OF SOIL POISONING, IN ORDER THAT THE RAVAGES OF THE JAPANESE BEETLE MIGHT BE CONTROLLED IN THIS STATE, THEREBY PREVENTING THE STATE BEING PLACED UNDER QUARANTINE BY THE FEDERAL GOVERNMENT.

Preamble: Damage by Japanese beetle to growing crops and fruits.

WHEREAS, the Japanese beetle has been discovered in this State and has caused and will cause tremendous damage and destruction to growing crops and fruits; and

Imposition of quarantine on State by Federal Gov't. unless insect is eradicated.

WHEREAS, unless some action to eradicate this insect and to prevent further destruction of such crops is taken by the State, the Federal Government will impose a quarantine on the State, thereby preventing shipment out of the State of such farm crops; and

Damages suffered by farmers.

WHEREAS, failure to take steps to prevent the increase of the Japanese beetle and to destroy the same, the farmers of this State will suffer an incalculable sum of money resulting from the failure to market their farm products; and

Agreement of Federal Government to furnish equipment for eradication of beetle.

WHEREAS, the Federal Government through the Department of Agriculture has agreed to furnish all equipment necessary for the eradication and destruction of the Japanese beetle free of charge and has further agreed to supervise this activity; *Now, therefore,*

The General Assembly of North Carolina do enact:

Appropriations from general fund and agricultural fund, for eradication of Japanese beetle.

SECTION 1. There is hereby appropriated for the fiscal year one thousand nine hundred thirty-nine—one thousand nine hundred forty, the sum of thirty-five thousand dollars ($35,000) and for the fiscal year one thousand nine hundred forty—one thousand nine hundred forty-one, the sum of twenty-five thousand dollars ($25,000), of which sums, one-half is hereby appropriated from the general fund and one-half of which sum is hereby appropriated from the agricultural fund, to be expended in the discretion of the Director of the Budget by the Department of Agriculture in cooperation with the Federal Government to be used in the eradication and destruction of the Japanese beetle in this State.

Expenditure of appropriations.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 853 CHAPTER 235

AN ACT TO AMEND CHAPTER FOUR HUNDRED EIGHTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, RELATIVE TO THE GAME LAWS OF NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Sec. 20, Ch. 486, Public Laws, 1935, North Carolina Game Law, amended.

SECTION 1. That Section twenty of Chapter four hundred eighty-six of the Public Laws of one thousand nine hundred

thirty-five, be, and the same is hereby amended by adding at the end thereof the following paragraph:

"It shall be unlawful for any person to hunt, take or kill any upland game birds, squirrels or rabbits with or by means of any automatic-loading or hand-operated repeating shotgun capable of holding more than three shells, the magazine of which has not been cut off or plugged with a one-piece metal or wooden filler incapable of removal through the loading and thereof, so as to reduce the capacity of said gun to not more than three shells at one time in the magazine and chamber combined. It shall also be unlawful to shoot any such birds while such birds are sitting on the ground."

Hunting with automatic or repeating shotguns regulated.

Shooting birds on ground unlawful.

SEC. 2. That Section twenty-five of Chapter four hundred eighty-six of the Public Laws of one thousand nine hundred thirty-five, be, and the same is hereby amended by striking out after the word "court" in line fifteen thereof, and before the word "any" in line seventeen, the following words, "and in all cases the board may revoke the license of any offender convicted under this section.", and substituting in lieu thereof the following:

Sec. 25, amended.

"And in all cases of conviction under this section, the court in which such conviction is had shall require the surrender of any hunting license then held by the person so convicted, and the court shall thereupon forward the same, together with a record of such conviction to the board. Such revocation of license shall be mandatory for the remainder of the period for which the license was issued."

Revocation of hunting license made mandatory upon conviction of violation of N. C. Game Law.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 903 **CHAPTER 236**

AN ACT TO AUTHORIZE THE COMMISSION TO BE APPOINTED BY THE GOVERNOR UNDER THE PROVISIONS OF HOUSE BILL NUMBER FIVE HUNDRED THIRTEEN, ONE THOUSAND NINE HUNDRED THIRTY-NINE LEGISLATURE, TO CONSIDER THE RELIEF OF HYDE COUNTY BY REASON OF ITS LOSSES BY THE ACQUIRING OF CERTAIN LANDS IN HYDE COUNTY BY THE UNITED STATES DEPARTMENT OF AGRICULTURE FOR GAME REFUGE PURPOSES.

Preamble: Purchase of land, Hyde County, by U. S. Dept. of Agriculture for establishment of game refuges.

WHEREAS, during the year one thousand nine hundred thirty-two, and years subsequent thereto, the United States Department of Agriculture, Bureau of Biological Survey, did purchase and/or acquire from The New Holland Corporation and others approximately sixty-five thousand four hundred twenty-five and eighty-five one hundredths (65,524.85) acres of land in the County of Hyde for the consideration of approximately three hundred and seventy-five thousand dollars ($375,000.00), for the establishment of game refuges; and

Collateral of holders of bonds issued by Hyde County affected by removal of purchased property from tax lists.

WHEREAS, said purchase and/or acquirement has removed said lands and the personal property which was located from the tax lists of said county, and thereby seriously affecting the collateral of the holders of bonds issued by the County of Hyde prior to the year of one thousand nine hundred thirty-two, and has thrust an additional tax burden upon the taxpayers of said county; and

U. S. Congress memoralized to make appropriation for relief of Hyde County.

WHEREAS, the General Assembly of the State of North Carolina has memorialized the Congress of the United States, by Joint Resolution Number twenty-eight of the General Assembly for the year one thousand nine hundred thirty-five, to make an appropriation for the relief of Hyde County in consideration of its losses in taxation by reason of the acquirement of said lands: *Now, therefore,*

The General Assembly of North Carolina do enact:

Commission to present to U. S. Congress matter of making appropriation for relief of Hyde County.

SECTION 1. That the commission of five members to be appointed by the Governor under the provisions of House Bill Number five hundred thirteen, one thousand nine hundred thirty-nine Legislature, in addition to the duties imposed upon them in said bill, be, and they are hereby, authorized and directed to present to the Congress of the United States the subject matter contained in Resolution Number twenty-eight of the Public Laws of one thousand nine hundred thirty-five, memorializing the Congress of the United States to make an appropriation for the relief of Hyde County. The said commission is further authorized and directed to present this subject

Presentation of legal and equitable rights of Hyde County.

matter to the Congress of the United States, and report further touching any legal or equitable rights the said County of Hyde may have on account of any losses sustained by the purchasing and/or acquiring lands in the County of Hyde by the United States Department of Agriculture, Bureau of Biological Survey, herein referred to.

Reports of Commission.

SEC. 2. That said commission shall fully report their acts to the General Assembly of one thousand nine hundred forty-one, and may report their findings of fact to the Congress of the United States for their consideration in the premises.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 904 CHAPTER 237

AN ACT NAMING THE HARD SURFACED ROAD FROM HENDERSON, NORTH CAROLINA, TO TOWNSVILLE, NORTH CAROLINA.

The General Assembly of North Carolina do enact:

State Highway No. 39 designated as "William S. Corbitt Highway."

SECTION 1. That the present hard surfaced road leading from Henderson, North Carolina to Townsville, North Carolina, and the Virginia line, known as State Highway Number thirty-nine, be, and the same is hereby named and designated the "William S. Corbitt Highway" in memory of the late William Shaw Corbitt of Henderson, North Carolina.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 952 CHAPTER 238

AN ACT TO REPEAL CERTAIN PROVISIONS OF SECTION ONE THOUSAND FIVE HUNDRED EIGHTY-TWO (B), OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA, AND TO PROVIDE FOR THE APPOINTMENT OF A RECORDER AND SOLICITOR IN HENDERSON COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1582 (B), amended.

SECTION 1. That all the provisions of Section one thousand five hundred eighty-two (B), Consolidated Statutes of North

Carolina, after the word "sub-chapter" in line three, and beginning with the word "provided" be, and the same is hereby, repealed.

Appointment of Recorder and Solicitor of Recorder's Court, Henderson County, by Resident Judge.

SEC. 2. That if a County Recorders' Court for Henderson County be hereafter established in accordance with the provisions of Article nineteen, entitled "County Recorders' Courts," of the Consolidated Statutes of North Carolina, and laws amendatory thereof and applicable thereto, the Resident Judge of the Eighteenth Judicial District of North Carolina shall immediately appoint a recorder and solicitor who shall be vested with all of the authority given to recorders and solicitors under the general law, and who shall serve until the first Monday in December, one thousand nine hundred and forty-two, and until their successors are appointed and qualified.

Four-year terms for Recorder and Solicitor.

Vacancy appointments.

SEC. 3. That not less than fifteen days prior to the first Monday in December, one thousand nine hundred and forty-two, and quadrennially thereafter, there shall be appointed by the resident judge of said district a recorder and solicitor for said court who shall serve for a term of four years. Any vacancy occurring in the office of the recorder or solicitor by resignation or otherwise shall be filled by the resident judge.

Compensation of Recorder and Solicitor.

Appointments certified to Clerk Superior Court.

SEC. 4. The recorder shall receive a salary of two hundred dollars per month and the solicitor a salary of one hundred fifty dollars per month, payable out of the general funds of the county, and all appointments made hereunder shall be certified by the Resident Judge to the Clerk of the Superior Court of Henderson County.

Conflicting laws repealed.

SEC. 5. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 6. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 955 CHAPTER 239

AN ACT RELATING TO THE LIMITATION OF COST FOR FORECLOSURE OF TAX SALES CERTIFICATES IN YADKIN COUNTY.

Preamble: Decision of Supreme Court declaring lien holders necessary parties to tax foreclosures.

WHEREAS, under the decision of the Supreme Court of North Carolina, in actions to foreclose tax sales certificates, it is necessary to make lien holders and others interested in the real estate affected by such tax sales certificates parties to such

actions, which necessitates search of the deed, mortgage, and other lien records to ascertain the lien holders and others so interested, and which further necessitates the service of summons upon such lien holders and others so interested, all of which cannot be done under the provisions of Chapter five hundred and sixty of the Public Laws of one thousand nine hundred and thirty-three, limiting the charges which may be made for such foreclosures; and

Tax sales certificates of Yadkin County which have not been foreclosed.

WHEREAS, there are a number of tax sales certificates held by Yadkin County for the years one thousand nine hundred and twenty-eight through one thousand nine hundred and thirty-seven which have not been foreclosed; *Now, therefore,*

The General Assembly of North Carolina do enact:

Ch. 560, Public Laws, 1933, as to tax forclosure actions, amended to increase attorney's fees and maximum costs, Yadkin County.

SECTION 1. That Section one of Chapter five hundred sixty of the Public Laws of one thousand nine hundred and thirty-three be and the same is hereby amended by striking out all of the two provisos appearing therein after the words "are hereby re-enacted" and inserting in lieu thereof the following: "*Provided* that the attorney's fee shall be five dollars ($5.00) in each suit for foreclosure; *Provided, further,* that the total cost of the taxpayer, including attorney's fees shall not exceed ten dollars ($10.00) in each suit for foreclosure."

Application of Act.

SEC. 4. That this Act shall apply to all actions pending and hereafter instituted.

SEC. 5. That this Act shall apply to Yadkin County and to any and all municipalities therein.

Conflicting laws repealed.

SEC. 6. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 7. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 160 **CHAPTER 240**

AN ACT TO PERMIT AND INSTRUCT THE TREASURER TO PAY CERTAIN BONDS AND INTEREST THEREON.

State bonds registered in name of "Treasurer of A. W. Tinnin Endowment Fund," burned.

WHEREAS, certain bonds of the State of North Carolina, to-wit: (a) One four and one-half per cent (4½%) Highway Registered Bond No. 38240 dated January first, one thousand nine hundred twenty-four, due January first, one thousand nine hundred forty-two, and (b) one four per cent (4%) Highway

Registered Bond No. 103840 dated January first, one thousand nine hundred twenty-seven, due July first, one thousand nine hundred forty-six registered in the name of "Treasurer of A. W. Tinnin Endowment Fund Mount Zion Christian Church, Mebane, North Carolina;"

WHEREAS, these bonds were kept in the dwelling of C. E. McCadams, Chairman of the Board of Trustees, which was burned along with the said bonds on March second, one thousand nine hundred thirty-five:

WHEREAS, the said bonds are now at a premium on the market:

The General Assembly of North Carolina do enact:

State Treasurer authorized to pay sums stated in full discharge of bonds.

SECTION 1. The Treasurer of the State of North Carolina is hereby empowered and directed, upon warrant of the State Auditor, which shall be issued therefor upon the highway fund, to pay to Charles L. Carden, Treasurer of the A. W. Tinnin Endowment Fund, Mount Zion Christian Church, Mebane, North Carolina in full discharge of said bonds and the interest thereon, the following: For the bond first mentioned above, to-wit, the four and one-half per cent (4½%) Highway Registered Bond No. 38240, the sum of one thousand, sixty-five dollars ($1,065.00); for the four per cent (4%) Highway Registered Bond No. 103840, the sum of one thousand, one hundred dollars ($1,100.00), making in all a total of two thousand, one hundred sixty-five dollars, ($2,165.00), face and premium of said bonds, to which sum shall be added accrued interest at date of payment.

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 202 **CHAPTER 241**

AN ACT TO AUTHORIZE NORTH CAROLINA RURAL REHABILITATION CORPORATION TO ADVANCE FUNDS FOR RURAL VOCATIONAL BUILDINGS AND OTHER PURPOSES AND TO RATIFY ACTIVITIES OF THE CORPORATION.

N. C. Rural Rehabilitation Corp. authorized to establish fund for loans to County Boards of Education, for erecting or equipping vocational buildings, etc.

The General Assembly of North Carolina do enact:

SECTION 1. That as of the twenty-sixth day of July, one thousand nine hundred and thirty-eight, North Carolina Rural Rehabilitation Corporation (which was created an agency of

the State of North Carolina by Chapter three hundred fourteen of the Public Laws of one thousand nine hundred thirty-five) be, and it is hereby, authorized to create a fund of three hundred twenty-five thousand dollars ($325,000.00) to be used, together with any income accruing thereon, for loans, to be made in the manner hereinafter set forth, to County Boards of Education for the purpose of erecting or equipping vocational buildings for teaching agriculture and home economics.

Loans to be made through State Board of Education.

SEC. 2. That the said loans shall be made through and with the assistance of the State Board of Education in the following manner:

Selection of communities.

(a) As applications for loans are made, the Director of Schoolhouse Planning and the Director of Vocational Education, State Department of Public Instruction, will select and recommend rural communities in which vocational agricultural and home economics buildings should be constructed or equipped.

Determination of power of county, etc. to borrow funds.

(b) The Local Government Commission will then determine whether the county or school district can, under the Constitution, borrow funds necessary for the construction or equipment of such buildings.

Approval of projects by State Board of Education.

(c) The State Board of Education will then pass upon, and approve or disapprove, the project from the standpoint of the State educational system.

Final approval by Finance Committee of Corporation.

(d) Such projects as have been approved will be submitted to the Finance Committee of the Board of Directors of North Carolina Rural Rehabilitation Corporation for final approval.

Delivery of funds to State Board of Education.

(e) Upon such final approval the North Carolina Rural Rehabilitation Corporation will deliver to the State Board of Education the funds which are to be advanced.

Loans made by State Board of Education.

(f) Said funds will be loaned by the State Board of Education according to the same rules and regulations and legal requirements as those under which the State Literary Fund is now administered.

Repayment of loans.

(g) Said loans will be repayable in ten (10) equal annual installments and will bear interest at four per cent per annum, payable annually, semi-annually, or quarterly, as the State Board of Education shall determine.

Notes payable to Rural Rehabilitation Corporation.

(h) All loans made by the State Board of Education from such funds so advanced by the Rural Rehabilitation Corporation shall be evidenced by notes payable to the order of the Rural Rehabilitation Corporation and upon completion of said loan, such notes shall be delivered, without further liability

upon the State Board of Education, to the Rural Rehabilitation Corporation and a proper receipt taken therefor.

Approval of applications from County Boards, by State Board of Education.

SEC. 3. That the State Board of Education be, and it is hereby, empowered to receive and approve applications from County Boards of Education for such vocational agricultural and home economics buildings or equipment loans in the same manner and on the same forms as it now receives applications for loans from the State Literary Fund, and in accordance with Sections five thousand six hundred eighty-three-five thousand six hundred eighty-seven, inclusive, of Michie's Code of one thousand nine hundred thirty-five, as amended (being C. S. five thousand six hundred seventy-two, five thousand six hundred seventy-three, five thousand six hundred seventy-four and five thousand six hundred eighty-one, as amended, and Sections two hundred seventy-three-two hundred seventy-seven of Chapter one hundred thirty-six of the Public Laws of one thousand nine hundred twenty-three, as amended), and in accordance with other applicable provisions of law.

Loans from State Literary Fund.

SEC. 4. That as an alternative method of making loans to County Boards of Education for the purpose of erecting or equipping such vocational agricultural and home economics buildings, the State Board of Education be, and it is hereby, empowered to make loans for said purposes from the State Literary Fund and to sell or transfer, without recourse, the notes received for said loans (together with the security therefor) to North Carolina Rural Rehabilitation Corporation. Loans so made from the State Literary Fund for such vocational agricultural and home economics buildings shall be made in accordance with Sections five thousand six hundred eighty-three-five thousand six hundred eighty-seven, inclusive, of Michie's Code of one thousand nine hundred thirty-five, as amended, (being C. S. five thousand six hundred seventy-two, five thousand six hundred seventy-three, five thousand six hundred seventy-four and five thousand six hundred eighty-one, as amended, and Sections two hundred seventy-three-two hundred seventy-seven of Chapter one hundred thirty-six of the Public Laws of one thousand nine hundred twenty-three, as amended) and in accordance with other applicable provisions of law.

Sale or transfer of notes to N. C. Rural Rehabilitation Corp.

Procedure for making loans from State Literary Fund.

County Boards of Education authorized to borrow funds.

SEC. 5. That County Boards of Education be, and they are hereby, empowered to borrow through or from the State Board of Education amounts necessary for constructing or equipping vocational agricultural and home economics buildings to the same extent and in the same manner as they are now authorized by law to borrow from the State Literary Fund by the provisions of Sections five thousand six hundred eighty-three-five thousand six hundred eighty-seven of Michie's Code of one thousand nine hundred thirty-five, as amended (being C. S.

Procedure.

five thousand six hundred seventy-two, five thousand six hundred seventy-three, five thousand six hundred seventy-four and five thousand six hundred eighty-one, as amended, and Sections two hundred seventy-three-two hundred seventy-seven of Chapter one hundred thirty-six of the Public Laws of one thousand nine hundred twenty-three, as amended) and by other applicable provisions of law.

Creation of fund for loans to students of rural social science, authorized.

Sec. 6. That as of the twenty-sixth day of July, one thousand nine hundred and thirty-eight, North Carolina Rural Rehabilitation Corporation be, and it is hereby, authorized to create a fund of twenty-five thousand dollars ($25,000.00) to be used for loans to students engaged in the study of rural social science; and the Directors of North Carolina Rural Rehabilitation Corporation be, and they are hereby, authorized to make such regulations relative to said loans as to the said Board of Directors may seem advisable.

Regulations.

Creation of fund for administrative expenses of Corporation.

Sec. 7. That as of the nineteenth day of May, one thousand nine hundred and thirty-eight, North Carolina Rural Rehabilitation Corporation be, and it is hereby, authorized to create a fund of ten thousand dollars ($10,000.00) to be used for administrative expenses of said Corporation.

Transfers of real and personal assets to Farm Security Administration, in trust, etc. ratified.

Sec. 8. That there is hereby ratified the Act of North Carolina Rural Rehabilitation Corporation and its Board of Directors in transferring to Farm Security Administration of the United States Department of Agriculture all of its real and personal assets of every kind and description (except the funds hereinabove referred to and except sums necessary for or incident to making the transfer to Farm Security Administration), in trust until the twentieth day of May, one thousand nine hundred and fifty, to use said property for certain purposes of the North Carolina Rural Rehabilitation Corporation selected and designated by the Board of Directors of said Corporation, and in trust thereafter to repay or redeliver to North Carolina Rural Rehabilitation Corporation any unused or unexpended portions of said property.

Conflicting laws repealed.

Sec. 9. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Sec. 10. That this Act shall be in full force and effect from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 217 CHAPTER 242

AN ACT TO AMEND CHAPTER NINETY-NINE OF THE PUBLIC LAWS OF NORTH CAROLINA, SESSION OF NINETEEN HUNDRED THIRTY-SEVEN, WITH REFERENCE TO THE AVAILABILITY OF FUNDS BY THE DIRECTOR OF THE BUDGET FOR EXPENDITURE.

The General Assembly of North Carolina do enact:

Ch. 99, Public Laws, 1937, Appropriations Act, amended.

SECTION 1. That Section three of Chapter ninety-nine of the Public Laws of North Carolina, session one thousand nine hundred thirty-seven, be and the same is hereby amended by striking out line twelve on page one hundred forty-three of Public Laws of North Carolina extra session one thousand nine hundred thirty-six regular session one thousand nine hundred thirty-seven, which reads "under Titles XII-four and five." and inserting in lieu thereof the following words and figures: "under Titles XII-four, five, six and seven."

Expenditure surplus highway funds for construction, maintenance, etc. of county and State highways and scenic parkways, etc.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 225 CHAPTER 243

AN ACT TO AMEND CHAPTER ONE HUNDRED AND FORTY-FIVE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-ONE, SO AS TO AUTHORIZE THE SENTENCING OF PRISONERS FOR WORK ON PUBLIC GROUNDS.

The General Assembly of North Carolina do enact:

Ch. 145, Public Laws, 1931, amended to provide for retention of prisoners by local units for work on parks or other public grounds.

SECTION 1. That Section thirty of Chapter one hundred and forty-five of the Public Laws of one thousand nine hundred and thirty-one, relating to the working of prisoners, be amended as follows:

Insert after the word "farm" and before the word "by" in next to the last line on page two hundred and seven the words "parks or other public grounds."

Likewise, amend the said section in the last line of the section, being the fourth line on page two hundred and eight, by inserting after the word "farms" and before the word "for" the words "parks or other public grounds."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act, to the extent of such conflict, are hereby repealed.

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

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 239 **CHAPTER 244**

AN ACT TO AMEND SECTION TWO HUNDRED TWENTY-FIVE (f), ARTICLE TEN, CHAPTER FIVE, CONSOLIDATED STATUTES OF NORTH CAROLINA, SO AS TO MORE CLEARLY DEFINE THE POWERS OF INDUSTRIAL BANKS.

The General Assembly of North Carolina do enact:

C. S, Ch. 5, Art. 10, section 225 (f), amended to more clearly define and grant additional powers to Industrial Banks.

SECTION 1. That Section two hundred twenty-five (f), Article ten, Chapter five of the Consolidated Statutes of North Carolina be, and the same hereby is amended by striking out the first paragraph thereof and inserting the following in lieu thereof:

"Industrial Banks shall have the powers conferred by paragraphs one, two, three, five and seven of Section one thousand one hundred twenty-six, and paragraph three of Section two hundred twenty (a) of the Consolidated Statutes of North Carolina; such additional powers as may be necessary or incidental for the carrying out of their corporate purposes, and in addition thereto the following powers:"

Sec. 225 (f) further amended, to authorize deposits in savings accounts and upon certificates of deposit.

SEC. 2. That Section two hundred twenty-five (f), Article ten, Chapter five of the Consolidated Statutes of North Carolina, as amended, be, and the same hereby is amended, by adding a new sub-paragraph to read as follows:

"6. To solicit, receive and accept money or its equivalent on deposit both in savings accounts and upon certificates of deposit."

C. S., Ch. 5, Art. 10, section 225 (m), amended to include sections on powers and restrictions.

SEC. 3. That Section two hundred twenty-five (m), Article ten, Chapter five, Consolidated Statutes of North Carolina, be, and the same hereby is, amended by inserting between "two hundred twenty (c)" and "two hundred twenty (j)" the following: "two hundred twenty (f), two hundred twenty (g)."

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 253 CHAPTER 245

AN ACT TO AUTHORIZE THE NORTH CAROLINA STATE DEPARTMENT OF LABOR TO ASSIST AND COOPERATE IN THE ENFORCEMENT OF THE FAIR LABOR STANDARDS ACT OF ONE THOUSAND NINE HUNDRED THIRTY-EIGHT AND TO RECEIVE PAYMENT AND/OR REIMBURSEMENT THEREFOR.

The General Assembly of North Carolina do enact:

State Department of Labor authorized to enter agreements with certain Federal agencies for enforcement of Fair Labor Standards Act.

Payments for services.

Regulation and approval of agreements.

Construction of Act.

Payments deposited in State Treasury for purposes of Act.

SECTION 1. The North Carolina State Department of Labor may and it is hereby authorized to enter into agreements with the Wage and Hour Division, and the Children's Bureau, United States Department of Labor, for assistance and cooperation in the enforcement within this State of the Act of Congress known as the Fair Labor Standards Act of one thousand nine hundred thirty-eight, approved June twenty-fifth, one thousand nine hundred thirty-eight, and is further authorized to accept payment and/or reimbursement for its services as provided by said Act of Congress. Any such agreement may be subject to the regulations of the Administrator of the Wage and Hour Division, or the Chief of the Children's Bureau of the United States Department of Labor, as the case may be, and shall be subject to the approval of the Director of the State Budget. Nothing in this Act shall be construed as authorizing the State Department of Labor to spend in excess of its appropriation from State funds, except to the extent that such excess may be paid and/or reimbursed to it by the United States Department of Labor. All payments received by the State Department of Labor under this Act shall be deposited in the State Treasury and are hereby appropriated to the State Department of Labor to enable it to carry out the agreements entered into under this Act.

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 226 CHAPTER 246

AN ACT RELATIVE TO THE TITLE TO THE LAND BUILT UP AND CONSTRUCTED IN THE TOWN OF WRIGHTSVILLE BEACH IN THE COUNTY OF NEW HANOVER AS A RESULT OF CERTAIN EROSION CONTROL WORK IN SAID TOWN.

Receding ocean front in Town of Wrightsville Beach.

WHEREAS, during the course of many years in the Town of Wrightsville Beach in the County of New Hanover, North Caro-

lina, much of the land abutting and fronting on the Atlantic Ocean in said town, formerly belonging to various property owners, has been and is now being washed away by successive storms, tides and winds; and

Low water mark changed by construction of new land on ocean front, through erosion projects.

WHEREAS, the said Town of Wrightsville Beach, with aid from the Federal Emergency Administration of Public Works, and with the proceeds of its own bonds, has made available sufficient funds with which to control the erosion caused by said tides and winds, and other causes, and to that end the said town has entered into a contract to pump sand from the waters of the Banks Channel, which comprises the Western limit of said town, and as a result thereof there has been, is now, and will be made and constructed new land on the ocean front of said town, which will change the ordinary and usual low water mark of the waters of the Atlantic Ocean along the front of said town, and when the work under said contract has been completed the question will arise as to whom the title to the said new land shall belong; and

Question as to title to new land.

Desire to fix title and define use.

WHEREAS, it is the desire of the authorities of the Town of Wrightsville Beach, as well as the State of North Carolina, to fix and define the title to such new made land, and to fix and determine its use, and to further define the littoral rights of the property owners abutting on the ocean front, which will be destroyed or taken by and through the making of such new made lands; *Now, therefore,*

The General Assembly of North Carolina do enact:

Title to portions land built up vested in abutting land owners.

Section 1. That all land filled in, restored, and made, and to be filled in, restored, and made, as the result of the recitals in preamble of this Act, which will exist between the present Eastern property line of the lot owners at present bordering on said ocean, and the low water mark of the Atlantic Ocean, after the work referred to in the preamble hereof, is completed, shall be within the corporate limits of the Town of Wrightsville Beach, and so much of said lands so filled in, restored and made, which will lie West of "the building line," to be defined and determined by Section two of this Act, is hereby granted and conveyed in fee simple to the land owner, to the extent that his land abuts thereon, and the balance of said land lying East of said building line, to be fixed and determined by Section two of this Act, is hereby granted and conveyed in fee simple to the Town of Wrightsville Beach; *provided, however,* that no building or structure shall be built and erected on said made and built up land lying East of "the building line," to be defined and set out in Section two of this Act, *and provided further* that all made and constructed land lying East of "the building line" shall be, at all times, kept open for the purpose of streets and highways for the use of the public, and further for the development and uses as a public square or park, as the governing authorities of the Town of Wrightsville Beach, by ordinance, shall determine; *and provided further* that

Remainder granted in fee simple to Town of Wrightsville Beach.

Use restricted.

Reversion to State upon non-use for purposes granted.

Littoral rights of abutting owners.

if any such property as is hereby granted and conveyed to the Town of Wrightsville Beach, shall cease to be used for the purposes or in the manner prescribed in this Act, it shall revert and become the property of the State of North Carolina, *and provided further* that the owners of the property abutting on said newly made or constructed land, shall, in front of their said property, possess and keep their rights, as if littoral owners, in the waters of the Atlantic Ocean, bordering on said newly acquired and constructed land.

Survey to be made by Town of Wrightsville Beach.

SEC. 2. That within thirty days from the date of the completion of the said work now being carried on by the Town of Wrightsville Beach, and referred to in the preamble hereof, the said Town of Wrightsville Beach, shall, at its own cost, survey, or have surveyed, by a competent engineer a line to be known as "the building line," and which shall constitute and define "the building line," referred to in Section one of this Act, and which shall run the full length of the work to be done under the contract referred to in the preamble hereof, and after "the building line" shall have been surveyed and fixed and determined, the said authorities of the Town of Wrightsville Beach shall immediately cause to be prepared a map showing, fixing and defining "the building line," which map so prepared, shall be immediately recorded in the office of the Register of Deeds of New Hanover County in a Map Book kept for said purpose, after the said engineer has appended an oath to the effect that the said line has been truly and properly surveyed and laid out and marked on said map, and the Register of Deeds shall properly index and cross-index said map, and when so recorded in said Map Book or entered or placed therein, in lieu of inserting a transcript thereof, and indexed, the said map shall be competent and prima facie evidence of the facts thereon, without other or further proof of the making of said map, and shall conclusively fix and determine "the building line" referred to in Section one of this Act.

Preparation of map.

Recording and indexing of map.

Property owners failing to assert claim presumed to have acquiesced in provisions of Act.

SEC. 3. That any property owner or claimant of land who is, in any manner affected by the provisions of this Act, and who does not bring suit against the Town of Wrightsville Beach, or assert such claim by filing notice thereof with the governing body of the town, either or both, as the case may be, or any claimant thereto under the provisions of this Act, or their successors or successor in title, within six months after "the building line" is surveyed and established, and the map thereof recorded, as provided for herein, shall be conclusively presumed to have acquiesced in, and to have accepted the terms and conditions hereof, and to have abandoned any claim, right, title or interest in and to the territory immediately affected by and through or as a result of the doing of act or acts or thing or things herein mentioned, and shall be forever bound from maintaining any action for redress upon such claim.

SEC. 4. That all laws and clauses of laws in conflict with the provisions of this Act, be, and the same are hereby repealed.

SEC. 5. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 254 **CHAPTER 247**

AN ACT TO PLACE THE NAME OF MRS. LILLIE M. WILLIAMS ON THE PENSION ROLL OF CONFEDERATE VETERANS' WIDOWS (CLASS A) OF THE STATE OF NORTH CAROLINA.

Preamble: Mrs. Lillie M. Williams, widow of James Williams, a Confederate veteran.

WHEREAS, Mrs. Lillie M. Williams married James Williams, a Confederate Veteran of Brunswick County, on June twenty-ninth, one thousand nine hundred eighteen and thereafter cared for and kept him tenderly until his death on April fifteenth, one thousand nine hundred thirty; and

Mrs. Williams without means of support.

WHEREAS, the said Mrs. Lillie M. Williams is now and has been for a number of years paralyzed in both legs and is without any property and has no relations to care for or provide for her: *Now, therefore,*

The General Assembly of North Carolina do enact:

Mrs. Lillie M. Williams, Brunswick County, placed on Class A pension roll.

SECTION 1. That Mrs. Lillie M. Williams of Brunswick County be and she is hereby placed on the pension roll of the State of North Carolina, to receive the pension now allowed Confederate Veterans' widows in Class A; *provided,* no benefit shall be paid hereunder unless and until the County Board of Pensions shall certify that the said Mrs. Lillie M. Williams is the widow of a Confederate Veteran.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

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

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 279 **CHAPTER 248**

AN ACT TO REQUIRE THE ASSISTANT DIRECTOR OF THE BUDGET TO ASSEMBLE CERTAIN INFORMATION RELATING TO THE PERSONNEL OF THE VARIOUS DEPARTMENTS, AGENCIES, AND INSTITUTIONS OF THE STATE.

The General Assembly of North Carolina do enact:

Reports to Director of Budget by officials of State departments, agencies and institutions as to personnel, etc.

SECTION 1. That as soon as practicable after the ratification of this Act, the assistant director of the budget shall require of all heads of departments, agencies, and institutions of the State to furnish him with a detailed statement, giving the name and residence of each employee in such department, agency, or institution over which he has supervision, and such other information relative to such personnel as the assistant director of the budget may require, and, when called upon to furnish such information, the head of each department, agency, or institution shall, within thirty days, furnish the information so requested.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 306 **CHAPTER 249**

AN ACT RELATING TO THE DISPOSITION OF ARCHIVES, NEWSPAPER FILES, PRINTED BOOKS AND MANUSCRIPTS ON FILE WITH THE VARIOUS DEPARTMENTS, INSTITUTIONS, OR POLITICAL SUBDIVISIONS OF THE STATE.

The General Assembly of North Carolina do enact:

C. S. 6145, amended.

SECTION 1. That Section six thousand one hundred forty-five of the Consolidated Statutes of North Carolina be, and the same is, hereby amended by adding after the last sentence in said section the following: *"Provided,* that any State archives, records, books, documents, original papers, newspaper files, printed books, or manuscripts which have no significance, importance, or value, may, upon the advice and recommendation of the custodian in charge of said archives, records, books, documents, original papers, newspaper files, printed books, and manuscripts, and upon the further advice and recommendation of the North Carolina Historical Commission, be authorized by the Council of State of the State of North Carolina to be destroyed or otherwise disposed of;

Disposition by Historical Commission of State archives, records, etc. having no value or importance, authorized.

Authorization by Council of State.

and, *provided also*, that any county, city, town, or any other governmental agency which may have in its possession or custody any public archives, records, books, documents, original papers, newspaper files, printed books, or manuscripts which have no significance, importance, or value, may, upon the advice and recommendation of the custodian in charge of said public archives, records, books, documents, original papers, newspaper files, printed books, and manuscripts, and upon the further advice and recommendation of the North Carolina Historical Commission, be authorized by the governing bodies of said county, city, town, or other governmental agency to be destroyed or otherwise disposed of. The North Carolina Historical Commission is hereby authorized and empowered to make such orders, rules, and regulations as may be necessary and proper to carry the provisions of this section into effect."

Disposition by local units or governmental agencies of public records, books, etc.

Regulations by Historical Commission.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 312 **CHAPTER 250**

AN ACT TO AMEND SECTIONS ONE THOUSAND ONE HUNDRED AND NINETY-THREE AND ONE THOUSAND ONE HUNDRED AND NINETY-FOUR OF THE CONSOLIDATED STATUTES RELATIVE TO CONTINUANCE OF CORPORATE EXISTENCE OF CORPORATIONS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand one hundred and ninety-three of the Consolidated Statutes be amended by striking out the last sentence therein, and substituting the following:

C. S. 1193, amended.

"The Superior Court of the county in which the principal office of the corporation is located may, upon petition of said corporation, continue the corporate existence for the purposes of winding up the affairs, for such time as the court may deem proper. The provisions hereof shall also apply to corporations whose affairs have not at this time been wound up."

Superior Court of County in which principal office is located, authorized to continue corporate existence, etc.

SEC. 2. That Section one thousand one hundred and ninety-four of the Consolidated Statutes be amended by adding at the end thereof, the following:

C. S. 1194, amended, as to vacancies on Board of Directors of dissolved corporations.

"Vacancies in the Board of Directors may be filled in accordance with the provisions of the by-laws of the corporation or the stockholders may fill such vacancies at a regular or duly called meeting."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 315 CHAPTER 251

AN ACT TO CREATE A COMMISSION TO BE KNOWN AS THE FORT FISHER NATIONAL PARK COMMISSION AND TO PROVIDE FOR THE ACQUISITION OF LANDS IN FEDERAL POINT TOWNSHIP, NEW HANOVER COUNTY, NORTH CAROLINA, FOR NATIONAL PARK PURPOSES AND TO AUTHORIZE THE CONVEYANCE OF THE SAME AND OTHER LANDS TO THE UNITED STATES OF AMERICA.

The General Assembly of North Carolina do enact:

Fort Fisher National Park Commission created.

SECTION 1. That there is hereby created a State Commission to be known as the Fort Fisher National Park Commission, which commission shall possess the power to perform the duties herein prescribed, and which commission is hereinafter referred to as "The Commission." The commission shall consist of five members. The Director of the Department of Conservation and Development shall be one of the five members of said commission and shall be the chairman thereof. The other four members of said commission shall be appointed by the Governor and shall be residents of New Hanover County, and those so appointed by the Governor shall serve for a term of four years. All vacancies in the membership shall be filled by appointment of the Governor. The members of the commission shall receive no compensation for their services. The commission shall file a report of its activities with the Governor annually on January first.

Members.

Chairman.

Vacancy appointments.

Reports to Governor.

Powers of Commission.

SEC. 2. The commission is hereby vested with all powers necessary or incident to the accomplishment of the purposes for which it is created as declared herein and, when any power is expressly conferred upon said commission, it shall be construed that such power includes all other powers necessarily incident thereto. Said commission shall not contract any debts or obligations except as specifically authorized.

Acquisition by Commission of certain lands in New Hanover County authorize.

SEC. 3. The commission is authorized, empowered and directed to acquire title in the name of the State of North Carolina to any lands, region or terrain, situate, lying, and being in Federal Point Township, New Hanover County, State of North Carolina, bounded on the East by the Atlantic Ocean, on the West by Cape Fear River channel, on the South by the New Hanover County line, and on the North by a line beginning at mean low water mark on the shore of the Atlantic Ocean and at the end of a line running North 50 degrees East one thousand four hundred fifty (1,450) feet from the flagstaff located in the center of what is known as Battle Acre within Fort Fisher; the point being 33 degrees, 58 minutes, 15 seconds, North latitude; and 77 degrees, 54 minutes, 55 seconds West longitude, and running thence across the peninsula known as Federal Point, North 72 degrees, West one thousand nine hundred (1,900) feet to the Eastern shore of the Cape Fear River, thence due West eight thousand three hundred (8,300) feet to a point in the channel of the Cape Fear River 33 degrees, 85 minutes, 20 seconds, North latitude; or such portions of said area as might be deemed necessary to accomplish the purpose of this Act.

Title to land taken in name of State of North Carolina.

SEC. 4. That title to and control of any land or interest therein within the area of Fort Fisher National Park acquired by the commission shall be taken in the name of the State of North Carolina, and such title may be acquired by gift, purchase, or by any other means authorized by law; and the said commission is further authorized to receive any other property, including money, by gift, devise, bequest, or otherwise, and all money so received by the commission shall be accepted on behalf of the State of North Carolina and shall be deposited with the State Treasurer and kept by the treasurer in a special account, to be expended only for the purposes of this Act in the manner hereinafter provided. The lands and interest in lands acquired in the name of the State of North Carolina shall be held by the State in trust to be conveyed to the United States of America for national park purposes. The deeds for any such lands so conveyed to the United States of America shall be executed by the Governor and attested by the Secretary of State, and when so executed shall be entitled to be recorded in the office of Register of Deeds of New Hanover County. Such deeds shall, unless otherwise specified therein, convey an absolute title in fee simple to the lands therein described.

Commission authorized to receive other property.

Lands and interest held in trust for conveyance to United States.

Execution of deeds to United States.

Commission vested with power of eminent domain.

SEC. 5. The commission hereby created, as an agency of the State of North Carolina, is vested with the power of eminent domain to acquire in the name of and in behalf of the State of North Carolina, and to condemn for national park purposes,

land and other property, located only within the boundaries of New Hanover County, without being subject to the limitations provided by Section one thousand seven hundred and fourteen of Chapter thirty-three, Consolidated Statutes of North Carolina, and amendments thereto. The power of eminent domain hereby conferred shall be exercised under and in pursuance of the provisions of Chapter thirty-three of the Consolidated Statutes of North Carolina, except that it shall in no case be necessary to allege and prove that an effort has been made to agree with the owner upon a fair and reasonable price for the acquisition of any property sought to be acquired.

Exercise of power of eminent domain.

Ungranted State lands within designated area to be conveyed by Governor to United States.

SEC. 6. That all ungranted lands of the State of North Carolina within the boundaries of the Fort Fisher National Park as the same may be hereafter determined, is hereby set apart in reserve to be conveyed by the Governor at such time as he shall determine to the United States of America to become a part of the Fort Fisher National Park, and the Governor is hereby fully authorized and empowered to convey the same under and in accordance with the terms of this Act for such purpose.

Duties of Attorney General of State of North Carolina.

SEC. 7. That it shall be the duty of the Attorney General of the State of North Carolina to institute and conduct all condemnation proceedings and litigation provided for in this Act, or which may arise by virtue of any and all proceedings hereunder, to investigate and pass upon all titles to the lands within the area to be acquired, and to approve all deeds or titles under which the State of North Carolina acquires title to said land; to provide and supply all forms of instruments necessary in connection with the activities of the said commission, to advise in all matters relating to their duties under this Act.

Concurrent jurisdiction with United States over designated lands, reserved by State.

SEC. 8. The State of North Carolina does hereby reserve and retain a concurrent jurisdiction and authority with the United States over said lands as that all civil and criminal writs, processes, orders and notices issued from its courts, or in any civil or criminal actions or proceedings therein, may be served and executed thereon, and all violations thereon of its criminal and other laws may be punished and the violators dealt with according to said laws, in like manner and with like effect as if such conveyances had never been executed, it being expressly provided that the continued existence of this jurisdiction and authority is a condition upon which such conveyances depend.

Rights of State of North Carolina as to public roads and highways over and upon said lands.

The State of North Carolina and its subdivisions shall retain title to and control of all public roads and highways now laid out or established over and upon said lands and the further right to lay out and establish over and upon said lands such other highways and roads as shall be deemed necessary

by the State of North Carolina and political subdivisions thereof, and to such end the said land shall be subject to condemnation proceedings in the same manner and to the same extent as if said lands were privately owned.

That in making said conveyances, the conditions herein recited shall become a part of the terms and conditions under which such conveyances are made and it shall be unnecessary to recite the same in such conveyances. Conditions herein recited declared a part of conveyances.

SEC. 9. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 10. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 316 **CHAPTER 252**

AN ACT TO AMEND SECTION THREE THOUSAND EIGHT HUNDRED EIGHTY-THREE OF THE CONSOLIDATED STATUTES AS AMENDED, FIXING THE EXPENSES ALLOWED THE JUSTICES OF THE SUPREME COURT AT AN AMOUNT EQUAL TO THAT ALLOWED JUDGES OF THE SUPERIOR COURT.

The General Assembly of North Carolina do enact:

SECTION 1. That Section three thousand eight hundred eighty-three of the Consolidated Statutes of North Carolina as amended by Chapter two hundred fourteen of Public Laws of one thousand nine hundred twenty-five be, and the same is hereby amended by striking out the words "five hundred annually in lieu of and in commutation for traveling expenses," and substituting therefor the words "in lieu of and in commutation for expenses incident to attendance upon the court an amount equal to that allowed to each Judge of the Superior Court, payable in equal monthly installments, as a part of his compensation." C. S. 3883, amended as to expense allowance to Justices of the Supreme Court.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after the first day of July, one thousand nine hundred and thirty-nine. Effective date.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 317 **CHAPTER 253**

AN ACT TO CHANGE THE NAME OF THE ELIZABETH CITY STATE NORMAL SCHOOL AT ELIZABETH CITY TO THE ELIZABETH CITY STATE TEACHERS COLLEGE, AND TO PROVIDE ADVANCED COURSES OF INSTRUCTION FOR ELEMENTARY TEACHERS AND PRINCIPALS.

Preamble: Need in negro schools of elementary teachers holding Class A certificates.

WHEREAS, there is urgent need in negro schools for elementary teachers who have had a four-years course and who hold grammar grade and primary class A certificates; and

Degree from standard college required for issuance of Class A certificate.

WHEREAS, the State Board of Education through the certification requirements specifies that as of July first, one thousand nine hundred forty and thereafter, the issuance of the class A certificates will be based upon a satisfactory completion of the requirements for a degree from a standard college, along with, or in addition to, the specific certificate requirements: *Therefore,*

The General Assembly of North Carolina do enact:

"Elizabeth City State Teachers College."

SECTION 1. The Elizabeth City State Normal School, located at Elizabeth City, shall hereafter be known as the Elizabeth City State Teachers College.

Establishment of four-year course in elementary education at Elizabeth City State Teachers College, authorized.

SEC. 2. The State Board of Education, subject to the provisions of "An Act to place certain normal schools under the control of the State Board of Education," Chapter sixty-one, Public Laws of nineteen hundred and twenty-one, is hereby authorized and empowered to establish in the Elizabeth City State Teachers College four-year courses in the field of elementary education to train elementary teachers qualified to obtain grammar grade and primary class A certificates, and to train elementary school principals for rural and city schools.

Granting of degrees.

SEC. 3. The degrees to be granted by the Elizabeth City State Teachers College for the completion of a four-year course of study shall be subject to the State Board of Education in accordance with Article thirty-six, Chapter one hundred and thirty-six, Public Laws, nineteen hundred and twenty-three, which gives the State Board of Education authority to regulate degrees.

SEC. 4. This Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 321 **CHAPTER 254**

AN ACT TO PROVIDE FOR THE RECORDING OF BANKRUPTCY RECORDS AS CONTEMPLATED BY CLAUSE G OF SECTION TWENTY-ONE OF THE ACT OF THE CONGRESS OF THE UNITED STATES ENTITLED AN ACT TO ESTABLISH A UNIFORM SYSTEM OF BANKRUPTCY THROUGHOUT THE UNITED STATES (HEREINAFTER CALLED "UNITED STATES BANKRUPTCY ACT"), AS AMENDED BY THE ACT OF JUNE TWENTY-SECOND, ONE THOUSAND NINE HUNDRED THIRTY-EIGHT, KNOWN AS THE CHANDLER ACT.

The General Assembly of North Carolina do enact:

Recording of bankruptcy records by Registers of Deeds.

SECTION 1. That a copy of the petition with the schedules omitted beginning a proceeding under the United States Bankruptcy Act, or of the decree of adjudication in such proceeding, or of the order approving the bond of the trustee appointed in such proceeding, shall be recorded in the office of any Register of Deeds in North Carolina, and it shall be the duty of the Register of Deeds, on request, to record the same.

Fees for registration.

SEC. 2. The Register of Deeds shall be entitled to the same fees for such registration as he is now entitled to for recording conveyances.

SEC. 3. This Act shall be in force from its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 328 **CHAPTER 255**

AN ACT CREATING A COORDINATING COMMITTEE OF THE NORTH CAROLINA STATE COLLEGE OF AGRICULTURE AND ENGINEERING AND OF THE NORTH CAROLINA STATE DEPARTMENT OF AGRICULTURE.

Preamble: N. C. State College and State Dept. of Agriculture—agencies for promotion of agricultural work.

WHEREAS, the North Carolina State College of Agriculture and Engineering and the North Carolina Department of Agriculture are the main agencies in the State having duties and responsibilities in the promotion of agricultural work; and

Agreements as to determination and division of duties.

WHEREAS, there have been compiled and signed memoranda of agreements between the State College and the Department of Agriculture relative to the determining and the division of the duties and functions of the two departments; and

WHEREAS, there is and may arise from time to time differences of opinion on the part of the two institutions as to these memoranda; and

New problems not covered by agreements.

WHEREAS, new problems may arise in the future not covered by these agreements; *Now, therefore*

The General Assembly of North Carolina do enact:

Coordinating Committee created.

SECTION 1. That a Coordinating Committee be and the same is hereby created consisting of thirteen members as follows:

Members.

The President of the Board of Trustees of the University of North Carolina, who shall be ex officio chairman of said committee, the President of the University, the Dean of Administration of State College of Agriculture and Engineering, and the Dean of Agriculture, the Commissioner of Agriculture, the Assistant Commissioner of Agriculture, and the State Chemist or any other officer in the Department of Agriculture which the Commissioner of Agriculture may designate, three members of the Board of Trustees of the Greater University of North Carolina who have a practical knowledge of agriculture, to be appointed by the president of the said board, and three members of the State Board of Agriculture, to be appointed by the Commissioner of Agriculture, the members so appointed to serve for a term of two years or until their successors are duly appointed.

Terms.

Duties of Coordinating Committee.

SEC. 2. That it shall be the duty of the Coordinating Committee herein created to deal with and handle any existing matters of duplication, overlapping or disagreement, and such controversial matters as may arise in the future in the agricultural agencies of the State College of Agriculture and Engineering and the Department of Agriculture. Whenever there is an overlapping or disagreement in consequence of closely allied functions and duties of the said agencies, it shall be the duty of the Coordination Committee to allocate, after due consideration, such duties and functions as may be in disagreement or overlapping, and that are not already allocated by law, to the proper agency as it may deem wise, and to require such cooperation between the employees in the agencies as it may deem necessary. The Coordinating Committee may investigate, on complaint, or on its own initiative, any overlapping, duplication or disagreement and the decision of the said committee shall be binding on all parties.

Investigation and determination of controversial matters.

Findings of Commission to be binding on Commissioner of Agriculture and President of University.

SEC. 3. That the findings and recommendations of the Coordinating Committee shall be binding on the Commissioner of Agriculture and the President of the University of North Carolina and it shall be their duty to see that the findings and recommendations of the committee shall be put into effect in their respective departments.

SEC. 4. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 330 CHAPTER 256

AN ACT TO AMEND SECTION SIX HUNDRED NINETY OF THE CONSOLIDATED STATUTES, AS AMENDED BY CHAPTER TWENTY-THREE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE, AND AS FURTHER AMENDED BY CHAPTER TWENTY-SIX PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, VALIDATING SALES OF REAL PROPERTY SOLD UNDER ORDER OF COURT.

The General Assembly of North Carolina do enact:

SECTION 1. That Section six hundred ninety of the Consolidated Statutes, as amended by Chapter twenty-three of the Public Laws of one thousand nine hundred thirty-one, and as further amended by Chapter twenty-six of the Public Laws of one thousand nine hundred thirty-seven, be and the same is hereby amended by adding at the end of said section the following: "That all sales or resales of real property heretofore made under order of court on the premises or at the courthouse door in the county in which all, or any part of the property, is situated, on any day other than Monday in any month, are hereby validated, ratified and confirmed: *Provided* this Act shall not affect pending litigation." C. S. 690, amended.

Sales or resales of real property made under order of court on day other than Monday, validated.

Pending litigation unaffected.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 311 **CHAPTER 257**

AN ACT TO CREATE A COMMISSION TO BE KNOWN AS THE NORTH CAROLINA CAPE HATTERAS SEASHORE COMMISSION AND TO PROVIDE FOR THE ACQUISITION OF LANDS IN THE CAPE HATTERAS REGION OF NORTH CAROLINA FOR NATIONAL SEASHORE PURPOSES AND TO AUTHORIZE THE CONVEYANCE OF THE SAME AND OTHER LANDS TO THE UNITED STATES OF AMERICA.

The General Assembly of North Carolina do enact:

North Carolina Cape Hatteras Seashore Commission created.

SECTION 1. That there is hereby created a State Commission to be known as the North Carolina Cape Hatteras Seashore Commission, which commission shall possess the power to perform the duties herein prescribed, and which commission is hereinafter referred to as "the commission." The commission shall consist of nine members. The Director of the Department of Conservation and Development shal be one of the nine members of said commission and shall be the chairman thereof. The Governor shall designate three members of the Board of Conservation and Development to serve ex officio as members of said commission, the three members of said board so designated by the Governor to serve for such length of time as determined by him. Five members of said commission shall be appointed by the Governor, two of whom may be non-residents of the State of North Carolina, and those so appointed by the Governor shall serve for a term of four years. All vacancies in the membership of the said commission shall be filled by appointment of the Governor. The commission shall appoint a secretary and select such clerical help as may be necessary to carry out its functions. The secretary shall act as agent for the commission and shall devote such part of his time to the discharge of his duties as shall be determined by the commission and receive such compensation as shall be determined by the commission. The commission shall fix the salaries and wages of the agents and employees of the commission. Members of the commission shall receive no compensation for their services, but shall be paid their actual traveling expenses while attending meetings of the commission at the call of the chairman. The commission shall file a report of its activities with the Governor annually on January first.

Chairman.

Members.

Vacancy appointments.

Secretary and assistants.

Duties of secretary.

Compensation of employees.

Annual report to Governor.

Powers of Commission.

SEC. 2. The commission is hereby vested with all powers necessary or incident to the accomplishment of the purposes for which it is created as declared herein and, when any power is expressly conferred upon said commission, it shall be construed that such power includes all other powers necessarily incident thereto. Said commission shall not contract any debts or obligations in excess of the sum appropriated by law and funds acquired by gift as hereinafter provided.

SEC. 3. The commission is authorized, empowered and directed to acquire title in the name of the State of North Carolina to any lands contemplated by the Act of Congress approved August seventeenth, one thousand nine hundred thirty-seven (50 Stat. 669), entitled "An Act to provide for the establishment of the Cape Hatteras National Seashore in the State of North Carolina, and for other purposes," which is, in words and figures, as follows:

Acquisition of title to certain lands authorized.

"Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That when title to all the lands, except those within the limits of established villages, within boundaries to be designated by the Secretary of the Interior within the area of approximately one hundred square miles on the islands of Chicamacomico, Ocracoke, Bodie, Roanoke, and Colington, and the waters and the lands beneath the waters adjacent thereto shall have been vested in the United States, said area shall be, and is hereby, established, dedicated, and set apart as a national seashore for the benefit and enjoyment of the people and shall be known as the Cape Hatteras National Seashore: *Provided*, That the United States shall not purchase by appropriation of public monies any land within the aforesaid area, but such lands shall be secured by the United States only by public or private donation.

Act of Congress providing for establishment of Cape Hatteras National Seashore.

"SEC. 2. The Secretary of the Interior is hereby authorized to accept donations of lands, interests in land, buildings, structures, and other property, within the boundaries of said national seashore as determined and fixed hereunder and donations of funds for the purchase and maintenance thereof, the title and evidence of title to lands acquired to be satisfactory to the Secretary of the Interior: *Provided*, That he may acquire on behalf of the United States any donated funds by purchase, when purchasable at prices deemed by him reasonable, otherwise by condemnation under the provisions of the Act of August first, one thousand eight hundred eighty-eight, such tracts of land within the said national seashore as may be necessary for the completion thereof.

Secretary of Interior authorized to accept donations of land, interests, etc.

"SEC. 3. The administration, protection, and development of the aforesaid national seashore shall be exercised under the direction of the Secretary of the Interior by the National Park Service, subject to the provisions of the Act of August twenty-fifth, one thousand nine hundred sixteen (39 Stat. 535), entitled 'An Act to establish a National Park Service, and for other purposes,' as amended: *Provided*, That except as hereinafter provided nothing herein shall be construed to divest the jurisdiction of other agencies of the Government now exercised over Federal-owned lands within the area of the said Cape Hatteras National Seashore: *Provided further*, That the provisions of the Act of June tenth, one thousand nine hundred twenty, known as the 'Federal Water Power Act,' shall not apply to this national seashore: *And provided further*, That the legal residents of villages referred to in Section one of this Act shall have the right to earn a

Supervision of development and administration of national seashore.

Right of legal residents of village to earn livelihood by fishing.

livelihood by fishing within the boundaries to be designated by the Secretary of the Interior, subject to such rules and regulations as the said Secretary may deem necessary in order to protect the area for recreational use as provided for in this Act.

"SEC. 4. Except for certain portions of the area, deemed to be especially adaptable for recreational uses, particularly swimming, boating, sailing, fishing, and other recreational activities of similar nature, which shall be developed for such uses as needed, the said area shall be permanently reserved as a primitive wilderness and no development of the project or plan for the convenience of visitors shall be undertaken which would be incompatible with the preservation of the unique flora and fauna or the physiographic conditions now prevailing in this area: *Provided,* That the Secretary of the Interior may, in his discretion, accept for administration, protection, and development by the National Park Service a minimum of ten thousand acres within the area described in Section one of this Act, including the existing Cape Hatteras State Park, and, in addition, any other portions of the area described in Section one hereof if the State of North Carolina shall agree that if all the lands described in Section one of this Act shall not have been conveyed to the United States within ten years from the passage of this Act, the establishment of the aforesaid national seashore may, in the discretion of the said secretary, be abandoned, and that, in the event of such abandonment, the said State will accept a reconveyance of title to all lands conveyed by it to the United States for said national seashore. The lands donated to the United States for the purposes of this Act by parties other than the said State shall revert in the event of the aforesaid abandonment to the donors, or their heirs, or other persons entitled thereto by law.

Intention that area to be permanently reserved as a primitive wilderness.

Reconveyance to State in event of abandonment of project.

"In the event of said abandonment, the Secretary of the Interior shall execute any suitable quit-claim deeds, or other writings entitled to record in the proper counties of North Carolina stating the fact of abandonment, whereupon title shall revert to those entitled thereto by law and no further conveyance or proof of reversion of title shall be required.

Reversion of title in event of abandonment of property.

"SEC. 5. Notwithstanding any other provisions of this Act, lands and waters now or hereafter included in any migratory bird refuge under the jurisdiction of the Secretary of Agriculture, within the boundaries of the national seashore as designated by the Secretary of the Interior under Section one hereof, shall continue as such refuge under the jurisdiction of the Secretary of Agriculture for the protection of migratory birds, but such lands and waters shall be a part of the aforesaid national seashore and shall be administered by the National Park Service for recreational uses not inconsistent with the purposes of such refuge under such rules and regulations as the Secretaries of the Interior and Agriculture may jointly approve. The proviso to Section one of this Act shall not limit the power of the Secretary of Agri-

Continued jurisdiction of Secretary of Agriculture over migratory bird refuges within designated boundaries.

culture to acquire lands for any migratory bird refuge by purchase with any funds made available therefor by applicable law."

Title to lands taken in name of State of North Carolina.

SEC. 4. That title to and control of any land or interest therein within the area of the Cape Hatteras National Seashore may be acquired by the commission, title to which shall be taken in the name of the State of North Carolina, and such title may be acquired by gift, purchase, or by any other means authorized by law; and the said commission is further authorized to receive any other property, including money, by gift, devise, bequest, or otherwise, and all money so received by the commission shall be accepted on behalf of the State of North Carolina and shall be deposited with the State Treasurer and kept by the treasurer in a special account, to be expended only for the purposes of this Act in the manner hereinafter provided. The lands and interest in land acquired by the commission in the name of the State of North Carolina shall be held by the State in trust for transfer to the United States of America for national seashore purposes in accordance with the provisions of the Act of Congress hereinbefore recited.

Commission authorized to receive other property.

Lands and interest held in trust for United States.

Commission vested with power of eminent domain.

SEC. 5. The commission hereby created, as an agency of the State of North Carolina, is vested with the power of eminent domain to acquire in the name of and in behalf of the State of North Carolina, and to condemn for national seashore purposes, land and other property, including dwelling houses, outbuildings, orchards, yards, and gardens within the area contemplated by the said Act of Congress of August seventeen, one thousand nine hundred and thirty-seven, and without being subject to the limitations provided by Section one thousand seven hundred and fourteen of Chapter thirty-three, Consolidated Statutes of North Carolina, and amendments thereto. The power of eminent domain hereby conferred shall be exercised under and in pursuance of the provisions of Chapter thirty-three of the Consolidated Statutes of North Carolina, except that it shall in no case be necessary to allege and prove that an effort has been made to agree with the owner upon a fair and reasonable price for the acquisition of any property sought to be acquired.

Exercise of power of eminent domain

Ungranted State lands within designated area to be conveyed by Governor to United States.

SEC. 6. That all ungranted lands of the State of North Carolina within the boundaries of the Cape Hatteras National Seashore as the same may be hereafter determined in accordance with the Act of Congress hereinbefore recited, is hereby set apart in reserve to be conveyed by the Governor at such time as he shall determine to the United States of America to become a part of the Cape Hatteras National Seashore, and the Governor is hereby fully authorized and empowered to convey the same under and in accordance with the terms of this Act for such purpose. The said commission is hereby authorized and empowered to institute for and in the name of the State all actions necessary to recover the possession of any ungranted lands within the said

territory, title to which may be in dispute and held in possession of other persons.

Duties of Attorney General of State of North Carolina.

SEC. 7. That it shall be the duty of the Attorney General of the State of North Carolina to institute and conduct all condemnation proceedings and litigation provided for in this Act, or which may arise by virtue of any and all proceedings hereunder, to investigate and pass upon all titles to the lands within the area to be acquired, and to approve all deeds under which the State of North Carolina acquires title to the said lands; to provide and supply all forms of instruments necessary in connection with the activities of the said commission, to advise all officials and agents of the said commission in all matters relating to their duties under this Act; to appoint, with the approval of the Governor, special counsel, if deemed necessary by the Attorney General, to aid and assist in the performance of the duties imposed upon the Attorney General by this Act, such special counsel to be compensated in such sum as may be fixed by the Attorney General, from the funds hereinafter appropriated or such other funds as may be available under the terms of this Act.

Governor vested with power to convey lands or interests to United States.

SEC. 8. That the Governor, upon recommendation of the commission, is vested with the power to give, grant, convey and transfer to the United States of America for national seashore purposes, all lands or any interest in lands, including the lands within the existing Cape Hatteras State Park, which the State of North Carolina may now own or hereafter acquire within the area of the Cape Hatteras National Seashore as determined in accordance with the Act of Congress aforesaid; subject, however, to the provisions of Section four of the said Act of Congress of August seventeen, one thousand nine hundred and thirty-seven, the terms of said Act being hereby expressly agreed to by the State of North Carolina.

Execution of deeds.

The deed for any such lands so conveyed to the United States of America shall be executed by the Governor and attested by the Secretary of State, and when so executed shall be entitled to be recorded in the office of the Register of Deeds of the county in which said lands are situated. Such deeds shall, unless otherwise specified therein, convey an absolute title in fee simple to the lands therein described, subject to the provisions of Section four of the aforesaid Act of Congress.

Jurisdiction retained by State for levy and collection of taxes upon privately owned personal property.

SEC. 9. The United States of America is authorized to acquire by conveyances made pursuant to this Act the lands hereinbefore mentioned and referred to, for the purposes set out in the Act of Congress hereinbefore recited, but this consent is given upon condition that the State of North Carolina does hereby reserve to itself and to its political subdivisions all of the jurisdiction, power, and authority now possessed by it and them to lay and collect privilege license, franchise, income, intangible, sales, use, and other taxes, including ad valorem taxes upon

personal property privately owned and located or used upon such lands, in like manner and to the same extent and with like effect as if such conveyances had never been executed, it being hereby provided that the continued existance of this jurisdiction, power, and authority is a condition upon which such conveyances depend; *Provided, however,* that no taxes shall be levied or assessed against any of said lands or against any personal property located or used thereon and owned by the United States or by any of its departments, bureaux, services, commissions, instrumentalities, or corporations created or controlled by it.

State of North Carolina to have concurrent jurisdiction with United States over designated lands.

The State of North Carolina does hereby reserve and retain a concurrent jurisdiction and authority with the United States over said lands as that all civil and criminal writs, processes, orders and notices issued from its courts, or in any civil or criminal actions or proceedings therein, may be served and executed thereon, and all violations thereon of its criminal and other laws may be punished and the violators dealt with according to said laws, in like manner and with like effect as if such conveyances had never been executed, it being expressly provided that the continued existance of this jurisdiction and authority is a condition upon which such conveyances depend. Such conveyances also shall be made subject to the condition that persons residing on any of the land or lands deeded or conveyed as aforesaid shall have the right to vote in all elections within the county in which said land or lands are located upon like terms and conditions and to the same extent as they would be entitled to vote in such county had not such lands been deeded or conveyed as aforesaid to the United States of America; and upon the further condition that the State of North Carolina and its subdivisions expressly retain title to and control of all public roads and highways now laid out or established over and upon said lands, and the further right to lay out and establish over and upon said lands such other highways and roads as shall be deemed necessary by the State of North Carolina and political subdivisions thereof; and to such end the said land shall be subject to condemnation proceedings in the same manner and to the same extent as if said lands were privately owned.

Right of franchise preserved for residents of area.

Reservation as to public roads and highways.

Conditions herein recited declared a part of conveyance.

That in making said conveyances, the conditions herein recited shall become a part of the terms and conditions under which such conveyances are made and it shall be unnecessary to recite the same in such conveyances.

Appropriation to Dept. of Conservation and Development for purposes of Act.

SEC. 10. That there is hereby appropriated to the Department of Conservation and Development out of the general fund the sum of twenty thousand dollars, or so much thereof as may be necessary, which sum so appropriated shall be used and expended by the Department of Conservation and Development for carrying out the purposes of this Act; that expenditures from said appropriation shall be made upon recommendation of the commission, when approved by the Department of Conservation and

Expenditures from appropriation.

Development. That all other funds received by the commission by way of gifts as hereinbefore provided and deposited in the special fund in the office of the State Treasurer, shall be expended only for the purchase of land, unless otherwise specified by the donor, and in any case in accord with the terms of the gift and for the purposes as therein provided. That the sum hereby appropriated shall not lapse at the end of the biennium, but shall remain available for expenditure as aforesaid until otherwise provided by law.

Conflicting laws repealed.

SEC. 11. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 12. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 348 **CHAPTER 258**

AN ACT TO AMEND CONSOLIDATED STATUTES, SECTION THREE THOUSAND EIGHT HUNDRED EIGHTY-FOUR (a) WITH REFERENCE TO RETIREMENT OF JUDGES.

The General Assembly of North Carolina do enact:

C. S. 3884 (a), amended to make Retirement Act applicable to regular and special judges, and all justices or judges after 6 years service.

SECTION 1. That Consolidated Statutes of North Carolina, Section three thousand eight hundred eighty-four (a) be, and the same hereby is, amended by adding after the words "every Justice of the Supreme Court and" and before the words "Judge of the Superior Court" the words "Regular or Special," and further amend said section by adding after the words "having served one full term" and before the words "on either the Supreme or Superior Court" the following: "or six years."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 361 **CHAPTER 259**

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT IN RELATION TO MUTILATED BONDS AND BONDS REGISTERED AS TO BOTH PRINCIPAL AND INTEREST.

The General Assembly of North Carolina do enact:

Ch. 86, Public Laws, 1931, Local Government Act, amended.

SECTION 1. That the Local Government Act, being Chapter sixty of the Public Laws of one thousand nine hundred thirty-one, as amended, be and the same is hereby amended by inserting a new section to be designated Sec. seventy-five-F and to read as follows:

Issuance by local units of new bonds to replace mutilated bonds and bonds registered as to both principal or interest.

"SEC. 75-F. In case any bond heretofore or hereafter issued by any unit has heretofore or shall hereafter become mutilated or has heretofore or shall hereafter be registered as to both principal and interest, the governing body of the unit may by resolution provide for the issuance of a new bond in exchange and substitution for and upon the cancellation of the mutilated bond and its interest coupons, if any, or the bond registered as to both principal and interest. The provisions of such resolution must be approved by the Local Government Commission before any exchange shall be made thereunder. In all such cases the holder shall pay the reasonable expenses and charges of the unit and of the commission in connection with such exchange. Such new bond shall mature at the same time and bear interest at the same rate as the bond in exchange for which it shall be issued, and shall be executed in such manner as may be provided in the resolution providing for the issuance of the new bond. Each such new bond shall be signed by the officers who are in office at the time of such signing, and shall contain a recital to the effect that it is issued in exchange for a certain bond (describing such bond sufficiently to identify it) and is to be deemed a part of the same issue as the original bond."

Approval by Local Government Commission.

Payment of expenses.

Maturity date, interest rate and execution of new bond.

Recital of identification with old bond.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 373 **CHAPTER 260**

AN ACT TO AMEND CHAPTER ONE HUNDRED TWENTY-NINE, SECTION SEVEN THOUSAND SIX HUNDRED SIXTY-ONE, OF THE CONSOLIDATED STATUTES AND ACTS AMENDATORY THEREOF, IN RELATION TO THE DISTRIBUTION OF STATE LAWS, JOURNALS AND OTHER PUBLIC DOCUMENTS TO THE LIBRARIES OF WAKE FOREST AND DAVIDSON COLLEGES.

The General Assembly of North Carolina do enact:

C. S., Ch. 129, section 7661, amended.

SECTION 1. That Chapter one hundred twenty-nine, Section seven thousand six hundred sixty-one, of the Consolidated Statutes and the Acts amendatory thereof, be amended by adding thereto the following paragraph:

Copies of State publications, etc. to libraries of Wake Forest and Davidson Colleges.

"That the Secretary of State shall, from and after the ratification of this Act, furnish to the libraries of Wake Forest College and Davidson College, respectively, on request by either of said libraries, not more than two copies each of the Public-Local and Private Laws, the House and Senate Journals, the legislative documents and all reports and publications of the State and of its several agencies, institutions and departments. Whenever the publication of any of the volumes or documents referred to herein is under the supervision of some official of the State other than the Secretary of State, then it shall be the duty of such other official to furnish the same as herein required. The provisions of this Act shall apply to the publications, reports and documents heretofore issued in so far as the same are available, as well as to such reports, volumes and documents published or issued after the ratification of this Act; *Provided*, that no reprint of any such volume or document shall be made in order to comply with the provisions hereof and no such volumes or documents so requested shall be furnished if the same are necessary for the proper discharge of the duties of any department or agency."

Application of Act to publications, reports, etc. heretofore issued.

Reprints not authorized.

SEC. 2. This Act shall be in force from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 377 **CHAPTER 261**

AN ACT TO VALIDATE CERTAIN DEFECTIVE PROBATES OF DEEDS BY A DEPUTY CLERK OF THE SUPERIOR COURT WHERE THE CLERK OF THE SUPERIOR COURT OF SAID COUNTY IS PARTY TO SAID DEED.

The General Assembly of North Carolina do enact:

Probates, etc. by deputy Clerk Superior Court of certain instruments in which Clerk Superior Court was a party, validated.

SECTION 1. In all cases where a deed, or other conveyance of land dated prior to the first day of January, one thousand nine hundred and eighteen, purporting to convey land, wherein the grantor or one of the grantors therein was at the time Clerk of the Superior Court of the county where the land purporting to be conveyed was located, was acknowledged, proof of execution, privy examination of a married woman, and, or, order of registration had and taken before a deputy Clerk of the Superior Court of said county, and the instrument registered upon the order of said deputy Clerk of the Superior Court in the office of the Register of Deeds of said county, within two years from the date of said instrument, is hereby in all respects validated and confirmed; and such instrument, together with such defective acknowledgment, proof of execution, privy examination of a married woman, order of registration, and the certificate of such deputy Clerk of the Superior Court, and the registration thereof, shall be and the same are hereby declared in all respects to be valid and binding upon the parties of such instrument and their privies, and such instrument so probated and recorded together with its certificates may be read in evidence as a muniment of title, for all intents and purposes, in any of the courts of this State.

Registration within two years from date required.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 394 **CHAPTER 262**

AN ACT TO PROVIDE FOR REGULATIONS SO AS TO PROHIBIT UNFAIR TRADE PRACTICES IN THE ADMINISTRATION OF THE GENERAL RETAIL SALES TAX LAW, AND TO AUTHORIZE THE COMMISSIONER OF REVENUE TO MAKE REGULATIONS GOVERNING THE COLLECTION OF THE TAX.

Preamble: Enactment of general sales tax.

WHEREAS, the General Assembly has enacted a general sales tax which is imposed as a license tax on retail merchants for the privilege of doing business in the State; and

Need for uniform rules and regulations for business operations under levy.

WHEREAS, the need exists for the promulgation of uniform rules and regulations whereby the merchants may conduct successfully their business in the State while operating under this levy; *Now, therefore,*

The General Assembly of North Carolina do enact:

Commissioner of Revenue to promulgate and enforce uniform regulations as to collection of sales tax.

SECTION 1. That in order that fair trade practices may be encouraged and any deleterious effect of the retail sales tax levy may be minimized, the Commissioner of Revenue is empowered and directed to devise, promulgate and enforce regulations under which retail merchants shall collect from the consumers, by rule uniform as to classes of business, the sales tax levied upon their business by the retail sales tax article:

Power to change regulations.

Provided, that the Commissioner of Revenue shall have the power to change the regulations and methods under which the merchants shall collect the tax from the consumers, from time to time, as experience may prove expedient and advisable. Methods for the passing on by merchants to their customers the retail sales tax on sales to said customers may include plans which require both more and less than the prescribed rate of the tax on the sale price, the purpose being to enable the merchants to collect approximately the amount of the tax imposed on their total sales volume.

Power of Commissioner to adopt rules requiring use of tokens or stamps, etc.

The Commissioner of Revenue is hereby authorized and empowered to make and adopt rules and regulations requiring merchants to use tokens or stamps, or other means, if found to be practical, which may be determined by the commissioner to provide a method whereby the amount of the tax collected by the merchant from the customer shall be as nearly as possible the prescribed rate of the tax on each purchase.

Regulations to become effective after reasonable notice.

Such regulations as herein authorized shall be promulgated by the Commissioner of Revenue to become effective after reasonable notice to the retail merchants and when so promulgated they shall have the full force and effect of law.

Violations of rules and regulations made misdemeanor.

Any merchant who violates such rules and regulations shall be guilty of a misdemeanor and upon conviction shall be fined not less than five dollars ($5.00) nor more than five hundred dollars ($500.00) or be imprisoned for not more than six months,

or be both fined and imprisoned in the discretion of the court: *Provided, however,* that every such violation shall be a separate offense hereunder. It shall be the duty of the solicitors of the several judicial districts of the State to prosecute violations of this Act.

Each violation a separate offense.

Prosecution of violations.

SEC. 2. That the provisions of this Act shall not affect in any manner the character or validity of the sales tax levy as a merchants' license tax, and they may not be pleaded or considered in the event any provision of the General Revenue Act is attacked as unconstitutional.

Construction of Act.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 108 CHAPTER 263

AN ACT TO AMEND SECTIONS FIVE THOUSAND NINE HUNDRED THIRTY-FIVE AND SIX THOUSAND TWENTY-SEVEN OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA SO AS TO REQUIRE A NEW STATE-WIDE REGISTRATION OF VOTERS.

The General Assembly of North Carolina do enact:

SECTION 1. That prior to the next State-wide primary election held after the ratification of this Act there shall be a revision made of the registration books and a relisting of the voters in each and every precinct in the State in the manner hereinafter provided. On the first Saturday following the appointment of the members of the County Board of Elections preceding the one thousand nine hundred and forty primary election, the members of each County Board of Elections shall, after due notice of their appointment has been received, meet at eleven o'clock A. M. in the office of the Clerk of the Superior Court of the county and, after first taking their oath of office, shall organize by electing one member as chairman and another member as secretary of said board. The said board shall at this meeting authorize the revision of the registration books and the relisting of the voters in each precinct in the county in accordance with the provisions of this Act. The Clerk of the Superior Court shall, at this meeting, deliver to the Chairman of the County Board of Elections three new registration books and one new poll book for each precinct in the county, which new books shall have been furnished to said Clerk of the Superior Court by the State Board of Elections prior thereto together with a copy of this Act. The cost of printing and distribution of said new books shall be paid for by the State out

State-wide revision of registration books, and relisting of voters.

Organization of County Boards of Election.

Revision of county registration books.

New registration and poll books furnished by State Board of Elections.

Delivery to Chairman of County Board of Election of old registration books and poll books.

of the contingency and emergency fund. The said Clerk of the Superior Court shall, at this meeting, deliver to the said Chairman of the County Board of Elections the old registration books for each precinct in the county together with the poll books used in each precinct in the one thousand nine hundred and thirty-six and one thousand nine hundred and thirty-eight general elections, and he shall take a receipt from said chairman for the same. At this meeting the County Board of Elections shall authorize and direct the Chairman of the County Board of Elections, with the assistance of the registrars and any other necessary assistance to proceed with the relisting of the voters in the county, the cost of which shall be paid for by the Board of County Commissioners out of the county funds, but which shall be held to as low an amount as is consistent with the purposes of this Act. The said Chairman of the Board of Elections shall begin said work within eight days after said meeting and supervise the same until it is completed.

Order for relisting of voters.

Payment of expense.

"General Election Registration Book" for each precinct.

Contents.

SEC. 2. For each precinct the chairman shall have copied in a new registration book, to be known and labeled as "The General Election Registration Book," the names only of all registered electors who are shown by the poll book to have voted in such precinct in either the one thousand nine hundred and thirty-six or the one thousand nine hundred and thirty-eight general election or the primary election, except electors who are known by the chairman to have died or moved their voting residence, and to record in said book opposite each name, information available with reference to the race, age, residence, place of birth and the township, county and state from whence he has removed, in the event of a removal. The party affiliation of the voters shall not be entered in this general election registration book. When this is completed, there shall be prepared for each precinct in duplicate a list of all the registered voters whose names were not transferred to the new general election registration book for the reason that such electors did not appear, according to the poll books, to have voted in either the general election or the primary election of one thousand nine hundred and thirty-six or one thousand nine hundred and thirty-eight. The said Chairman of the County Board of Elections shall thereafter publish said lists once a week for at least two consecutive weeks in a county journal or in his discretion have said lists posted at the courthouse door of said county at least two weeks prior to the opening of the regular primary registration period notifying all persons on said lists that their names would be erased from the registration books unless such persons personally appeared before their respective registrars during the regular registration period and showed their right to remain on the registration book and vote as qualified electors in said precinct. In the event that either the one thousand nine hundred and thirty-six or

Duplicate lists of voters whose names were not transferred to new books.

Publication of lists.

Notice of disqualification to registered voters who did not vote in general election of 1936-38.

New registration in event of loss of old poll books.

one thousand nine hundred and thirty-eight poll books for a precinct are lost and cannot be found then the chairman shall order a new registration of voters in such precinct before the primary election. In all counties having had a new county-wide registration of voters, either in the year one thousand nine hundred and thirty-six or one thousand nine hundred and thirty-eight, the said chairman in said county is authorized to transfer to the new registration books the names of all persons registered therein regardless of whether any of the persons so registered voted in either of said elections or primary elections of one thousand nine hundred and thirty-six or one thousand nine hundred and thirty-eight, except that the chairman shall remove from the books the names of all persons known by the chairman to have died or moved their voting residence elsewhere since said registration was held: *Provided, however,* that if the registration books in those counties having had a new registration within the time above mentioned do not show the party affiliation of the voter together with the other required information then the chairman shall order a new registration therein. In instances where the party affiliation is shown part of the time and is not shown in some cases, then the procedure set forth in the third section of this Act shall be followed: *Provided, further,* that in those counties having had a new county-wide registration of voters either in the year one thousand nine hundred and thirty-six or one thousand nine hundred and thirty-eight, which registration, revision and relisting of voters was performed in substantial compliance with the terms of this Act, in the opinion of the Chairman of the State Board of Elections the said chairman will not be required to comply with the terms and provisions of this Act.

In event of new county-wide registration in 1936 or 1938, Chairman to transfer all persons registered to new books.

Removal of names of deceased persons, etc.

New registration ordered in event books do not contain required information.

Counties having new registration, in substantial compliance, may be exempt.

Sec. 2½. In lieu of the procedure prescribed in this Act, any County Board of Elections in its discretion, may order a new registration of the voters in that county, or in any precinct or precincts therein: *Provided,* that in all cases the three registration books provided for in this Act shall be made so that there shall be a general election registration book and a separate primary registration book.

New registration in discretion of County Board.

Sec. 3. Where the registration books do not show in part the voters party affiliation, or age, race, residence, place of birth, etc., and the poll book for the precinct shows that such persons voted in either the one thousand nine hundred and thirty-six or the one thousand nine hundred and thirty-eight general election, or primary election, then the said chairman shall prepare a list of all such registered persons—including all of those absent from the county and employed outside of the county—and shall immediately mail a blank form to each of such persons whose address is given or known, instructing them to fill in the requested information on the blank return

Required information may be supplied by registered persons who voted in 1936 or '38 general elections.

form enclosed and to return the same to the said chairman or registrar of the precinct by the close of the registration period or their names will be removed from the registration book. It shall then be the duty of the registrar to remove from the registration book the names of all such persons who fail to return the blank return form with the requested information by the close of the registration period. All blank return forms of this kind so received by the registrars shall be kept until after the primary election and thereafter filed with the said chairman along with the precinct returns as part of the public records in the chairman's office: *Provided, however,* that the provisions of this section shall not be mandatory as to any voter when the Chairman of the County Board of Elections with the assistance of the registrars, or from any available source of information can obtain the facts, set out in said section, required to be obtained by the Election Laws of the State; but in all cases the party affiliation shall be shown on the primary registration books in order for the voter to participate in the primary election.

Removal from books of names of persons who fail to furnish information.

Returned forms preserved.

Provisions not mandatory in certain cases.

Party affiliation must be shown.

However, in the event that any person, whose name has been removed from the registration book by said County Board of Elections as having been disqualified to vote in the precinct, should appear at the polling place on election or primary day and give satisfactory evidence to the registrar and judges that he had never received any notice by mail or otherwise of his name being placed among the list of disqualified voters in that precinct, and can satisfy said officials that he is qualified to vote in that precinct, then such person's name shall be placed back on the general election registration book and on the primary registration book if he declares his party affiliation as provided in Section six, and he shall be allowed to vote in said precinct as before.

Registration of person giving satisfactory proof of failure to receive notice of disqualification.

SEC. 3½. On the day of the canvass of votes the registration books herein provided for shall be returned together with the poll books by the registrar to the Chairman of the County Board of Elections who shall have the care and custody of the same until they are placed in the hands of the registrar for the purpose of registration of voters or holding subsequent primary or general elections. Said Chairman of the County Board of Elections shall keep said books in a safe and secure place, a fire-proof vault if possible.

Return of registration and poll books to Chairman of County Board.

SEC. 4. After the completion of the transfer of the names registered electors to the general election registration book, as above provided, the Chairman of the County Board of Elections shall then transcribe to another new registration book to be labeled and known as "The Democratic Primary Registration Book," the names of all Registered Democrats who are

"The Democratic Primary Registration Book."

shown by the poll books to have voted in either the one thousand nine hundred and thirty-six or one thousand nine hundred and thirty-eight general election or primary election, and on another registration book shall transcribe the names of all registered Republicans who voted in either of the above specified elections, which book shall be known and labeled as the "Republican Primary Registration Book." The names of all electors registered on the old books without any party affiliation being given, or who are registered as Independents, or who fail to show their age, race, place of birth, residence, etc., shall not be transcribed to either party primary registration book until the said chairman or registrar shall have received back the blank return form from such electors as above provided for giving the requested information, or shall have obtained said information otherwise as hereinbefore provided in Section three of this Act.

"Republican Primary Registration Book."

Transfer of registered electors to party primary books.

Only the party primary registration book of the party participating in a primary election shall be used at the polls at a primary election and if only one party so participates then the other party primary registration book shall not be used or kept at the polls on primary day but shall, after the close of the registration period, be transmitted to the Chairman of the County Board of Elections along with the general election registration book. At a general election, only the general election registration book shall be used at the polls on election day, and after the close of the registration period the two party primary registration books shall be transmitted to the said chairman. In all registrations hereafter held before a primary or an election, the registrars shall register all qualified applicants for registration in both the general election registration book and also in the party primary book of the party with which the elector professes affiliation, but the party affiliations shall not be recorded in the general election registration book. Any applicant for registration who refuses to state his or her party affiliation shall not be registered in a party primary registration book and shall not be permitted to vote in a primary until the affiliation is stated and so recorded in the primary book of such party.

Book of party participating in primary used.

General election book used for general elections.

Registration in both the general election and party primary registration books.

Statement of party affiliation necessary for registration.

Sec. 5. The Chairman of the County Board of Elections shall transcribe to the new registration books the names of all persons who are recorded as having registered under the Grandfather Clause of the Constitution of North Carolina, regardless of whether such persons voted in either the one thousand nine hundred and thirty-six or one thousand nine hundred and thirty-eight election. The said chairman, however, shall not transcribe to the new books the names of any persons so registered who are known to have died or moved their voting residence elsewhere.

Transfer of persons registered under the "Grandfather Clause."

Change of party affiliation.

SEC. 6. No registered elector shall be permitted to change his party affiliation for a primary or second primary after the close of the registration period. Any elector who desires to change his party affiliation for a primary from the registration book on which registered to that of another party shall, during the registration period only, go to the registrar of his precinct and request that such change be made on the party primary books. Before being permitted to change his party affiliation, for the purpose of participating in a primary election, however, such elector shall be required by the registrar to take the oath of party loyalty to the party to which he wishes to now affiliate, and the registrar shall thereupon administer to the said elector the following oath:

Oath administered by Registrar.

I, ..., do solemnly swear (or affirm) that I desire in good faith to change my party affiliation from the ..... party to the ..... party, and that such change of affiliation be made on the party registration books, and I further solemnly swear (or affirm) that I will support the nominees of the party to which I am now changing my affiliation in the next election and the said party nominees thereafter until I shall, in good faith, change my party affiliation in the manner provided by law, so help me God.

Correction of error in designation of party affiliation.

If at any time the Chairman of the Board of Elections or the registrar of any precinct shall be satisfied that an error has been made in designating the party affiliation of any voter on the primary registration books then and in all such events the Chairman of the County Board of Elections or the registrar, having the custody of the registration book may make the necessary correction upon the voter taking the oath of party loyalty in substance of the form set forth in this section.

Wilful violations made misdemeanor.

SEC. 7. Any Chairman of a County Board of Elections who willfully and knowingly refuses or fails to comply with the provisions of this Act with respect to his duties as herein specified shall be guilty of a misdemeanor and, upon conviction, shall be punished by a fine, imprisonment, or both, in the discretion of the court.

Any registrar who willfully and knowingly registers an elector in the wrong party primary registration book contrary to the direction of the voter; or any registrar who willfully and knowingly refuses to make the change in the affiliation from one party primary book to another party primary book at the request of an elector who has taken the oath prescribed in Section six hereof; or any registrar who willfully and knowingly permits any person to vote in the primary of a party in whose registration book such person is not registered; or any

registrar who willfully and knowingly fails to comply with any of the duties placed upon him by this Act shall be guilty of a misdemeanor and shall be punished by a fine, imprisonment, or both, in the discretion of the court.

Removal of Chairman of County Board for violations.

Appointment of successor.

SEC. 8. The State Board of Elections shall have the authority to summarily remove any Chairman of a County Board of Elections who fails or refuses to comply with any of the duties placed upon him by the provisions of this Act, and shall thereupon request the Chairman of the State Executive Committee to recommend a person to succeed the member removed from said County Board of Elections, which said person shall thereupon be appointed by the State Board of Elections as the Chairman of such County Board of Elections.

Conflicting laws repealed.

SEC. 9. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 10. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 146 **CHAPTER 264**

AN ACT TO AMEND CHAPTER ONE HUNDRED SIXTY-FIVE OF THE PUBLIC LAWS OF NORTH CAROLINA SESSION ONE THOUSAND NINE HUNDRED THIRTY-THREE, AS AMENDED, AND THAT SECTION OF SAID CHAPTER DESIGNATED AS CONSOLIDATED STATUTES FIVE THOUSAND NINE HUNDRED THIRTY-TWO, AND THAT SECTION DESIGNATED AS CONSOLIDATED STATUTES SIX THOUSAND AND TWENTY-THREE, RELATING TO THE ELECTION LAWS.

The General Assembly of North Carolina do enact:

Ch. 165, Public Laws, 1933, amended to increase compensation of judges of election and registrars.

SECTION 1. That the section designated as Consolidated Statutes five thousand nine hundred thirty-two of Chapter one hundred and sixty-five of the Public Laws of North Carolina, session one thousand nine hundred and thirty-three, as amended by Chapter four hundred twenty-one of the Public Laws of North Carolina, session one thousand nine hundred and thirty-five, be amended by striking out the word "three" in the first sentence thereof, and by inserting in lieu thereof the word "four"; and by striking out the word "three" in the second sentence thereof, and by inserting in lieu thereof the word "five"; the purpose of this amendment being to increase the compensation of judges of election from three to four dollars

a day, and registrars from three to five dollars a day, for each day they serve in a primary or election; *provided* that Section one of this Act, relating to the compensation of election officials, shall not apply to Ashe, Alleghany and Watauga Counties.

Counties exempt.

Chapter further amended to increase filing fee of candidates for legislative and county offices.

SEC. 2. That the section designated as Consolidated Statutes six thousand and twenty-three of Chapter one hundred sixty-five of the Public Laws of North Carolina, session one thousand nine hundred and thirty-three, be amended by striking out in the second sentence thereof the words "one-half of", and by striking out all of that sentence in that section beginning with the word "Provided", and inserting in lieu of same the following: *Provided* that all candidates for nomination for any county or township office operated on a fee basis instead of a salary basis shall pay to the County Board of Elections a filing fee of five dollars, unless the holder of such office has in the year next preceding received in fees a sum in excess of five hundred dollars: In which event the filing fee shall be one per cent of such total amount received; the purpose of this amendment being to raise the filing fees of all county and legislative candidates to the same basis as that of all candidates for State offices; that is, one per cent of the annual salary of the office for the first year; and further to fix a filing fee for candidates for county and township offices operated on a fee basis instead of a salary basis at five dollars, unless the compensation for the office in the year next preceding was in excess of five hundred dollars.

Filing fee of candidates for county or township offices, operated on a fee basis, increased.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 162 CHAPTER 265

AN ACT TO APPROPRIATE THE SUM OF FOUR THOUSAND DOLLARS TO IMPROVE THE OYSTER INDUSTRY IN PAMLICO COUNTY, NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Appropriation for WPA oyster shell planting project, Pamlico County.

SECTION 1. That the sum of three thousand dollars ($3,000.00) be, and the same is hereby, appropriated from the general fund of the fiscal year, one thousand nine hundred thirty-nine—one thousand nine hundred forty for the purpose of

making possible a WPA oyster shell planting project in Pamlico County.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 633 **CHAPTER 266**

AN ACT TO AMEND SECTION EIGHTY-FIVE OF CHAPTER FOUR HUNDRED AND SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO THE REGULATION OF THE OPERATION OF VEHICLES ON HIGHWAYS.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter four hundred and seven of the Public Laws of one thousand nine hundred thirty-seven be and the same is hereby amended by adding at the end of Section eighty-five, on page eight hundred twenty-six, a new subsection known as subsection (d), which shall read as follows: Ch. 407, Public Laws, 1937, Uniform Motor Vehicle Act, amended.

"(d) It shall not be unlawful to drive farm tractors on dirt roads from farm to farm: *Provided,* in doing so they do not damage said dirt roads or interfere with traffic." Operation of farm tractors on dirt roads.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 654 **CHAPTER 267**

AN ACT TO AMEND CHAPTER TWO HUNDRED FORTY-FIVE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, RELATING TO COMPENSATION FOR SCHOOL CHILDREN KILLED AND/OR INJURED WHILE RIDING ON A SCHOOL BUS.

The General Assembly of North Carolina do enact:

Ch. 245, Public Laws, 1935, providing compensation to children injured or killed in school busses, amended to apply to terms additional to 8 months term.

SECTION 1. That Chapter two hundred forty-five of the Public Laws of one thousand nine hundred thirty-five, be, and the same is hereby amended by adding a new section, to be designated as Section six and one-half, to read as follows:

"SEC. 6½. That the provisions of this Act shall be, and are hereby made applicable to any school child, who may be injured and/or whose death results from injuries received while such child is riding on a school bus to and from the public schools of the State during the ninth month, or any term of public school additional to the regular eight months school term: *Provided,* that nothing herein contained shall be construed as imposing any obligation upon the State School Commission to provide funds for this purpose. The tax levying authorities of any school district which provides a supplement for the maintenance of a ninth month or additional school term are hereby authorized and directed to set up in their respective budgets a sum of money which is deemed sufficient to pay the claims authorized by this Act, and to pay out of such sum the expenses authorized to be paid in accordance with the provisions of this Act. No person, firm, or corporation making voluntary contributions for an extended term shall be liable on account of any accident or injury."

Payment of claims by school districts maintaining additional terms, authorized.

Non-liability of voluntary contributors for extended term.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 857 **CHAPTER 268**

AN ACT TO VALIDATE THE OFFICIAL ACTS PERFORMED BETWEEN APRIL FIRST, ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, AND MARCH TWENTY-FIRST, ONE THOUSAND NINE HUNDRED THIRTY-NINE, BY JUSTICES OF THE PEACE APPOINTED BY CHAPTER THREE HUNDRED TWENTY-ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE.

Preamble: Performance of official acts by certain Justices of Peace after expiration of terms.

WHEREAS, certain justices of the peace appointed by Chapter three hundred twenty-one, Public Laws of one thousand nine hundred thirty-one, for a term of six years continued to perform the acts of their offices to which they were appointed since the expiration of the term thereof: *Now, therefore,*

The General Assembly of North Carolina do enact:

Official acts of certain Justices of Peace performed after expiration of their terms validated.

SECTION 1. That each and all of the official acts of justices of the peace appointed by Chapter three hundred twenty-one, Public Laws of one thousand nine hundred thirty-one, performed after the expiration of their terms on April first, one thousand nine hundred thirty-seven, and before March twenty-first, one thousand nine hundred thirty-nine, including all judgments rendered, probates taken, marriages performed, and any and all other acts whatsoever, be, and the same are hereby in all respects validated, ratified and confirmed.

Pending litigation unaffected.

SEC. 1½. Nothing herein contained shall affect pending litigation.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 859 **CHAPTER 269**

AN ACT TO AMEND CHAPTER FOUR HUNDRED EIGHTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE RELATIVE TO THE SALE OF QUAIL IN THIS STATE.

The General Assembly of North Carolina do enact:

SECTION 1. That Section twenty-five of Chapter four hundred eighty-six of the Public Laws of one thousand nine hundred thirty-

Sec. 25, Ch. 486, Public Laws, 1935, N. C. Game Law, amended as to penalty for purchase or sale, etc. of quail in violation of Act.

five be amended by adding at the end of said section, the following: "Any person, firm or corporation who buys or sells, or offers to buy or sell, quail in violation of the provisions of this Act shall, upon conviction thereof, be fined not less than fifty dollars ($50.00) or imprisoned for not more than sixty days, or by both such fine and imprisonment in the discretion of the court.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 878 CHAPTER 270

AN ACT TO AMEND SECTION THREE HUNDRED FORTY-NINE OF CHAPTER ONE HUNDRED THIRTY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-THREE, RELATING TO ATTENDANCE OFFICERS.

The General Assembly of North Carolina do enact:

Sec. 349, Public School Law, 1923, amended.

Employment of special attendance officers.

SECTION 1. That Section three hundred forty-nine of the Public School Law, codification of one thousand nine hundred twenty-three, be amended by striking out after the period in line nine all of the remainder of said section and inserting in lieu thereof the following: "The County Board of Education in a county administrative unit and the board of trustees in a city administrative unit may employ special attendance officers to be paid from funds derived from fines, forfeitures and penalties, or other local funds, and said officers shall have full authority to prosecute for violations of this article; *Provided further* that in any unit where a special attendance officer is employed, the duties of chief attendance officer or truant officer as provided by law shall, in so far as they relate to such unit, be transferred from the County Superintendent of Public Welfare to the special attendance officer of said unit."

Transfer to special attendance officer certain duties of County Superintendent of Public Welfare.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 879 **CHAPTER 271**

AN ACT ASSENTING TO THE PROVISIONS OF THE ACT OF CONGRESS ENTITLED "AN ACT TO PROVIDE THAT THE UNITED STATES SHALL AID THE STATES IN WILD LIFE RESTORATION PROJECTS, AND FOR OTHER PURPOSES," APPROVED SEPTEMBER SECOND, ONE THOUSAND NINE HUNDRED THIRTY-SEVEN.

The General Assembly of North Carolina do enact:

Assent of State of North Carolina to Act of Congress providing for aid in wild life restoration projects.

SECTION 1. The State of North Carolina hereby assents to the provisions of the Act of Congress entitled "An Act to provide that the United States shall aid the States in wild life restoration projects, and for other purposes," approved September second, one thousand nine hundred thirty-seven (Public, number four hundred fifteen, seventy-fifth Congress), and the North Carolina Department of Conservation and Development is hereby authorized, empowered, and directed to perform such acts as may be necessary to the conduct and establishment of cooperative wild life restoration projects, as defined in said Act of Congress, in compliance with said Act and rules and regulations promulgated by the Secretary of Agriculture thereunder; and no funds accruing to the State of North Carolina from license fees paid by hunters shall be diverted for any other purpose than the protection and propagation of game and wild life in North Carolina and administration of the laws enacted for such purposes, which laws are and shall be administered by the Division of Game and Inland Fisheries under the direction of the North Carolina Department of Conservation and Development.

Duties and functions assigned to N. C. Dept. of Conservation and Development.

Use of funds accruing from hunting license fees.

Conflicting laws repealed.

SEC. 2. All laws and parts of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 883 **CHAPTER 272**

AN ACT TO AMEND SECTIONS FOUR THOUSAND EIGHT HUNDRED EIGHTY-TWO, FOUR THOUSAND EIGHT HUNDRED EIGHTY-THREE, FOUR THOUSAND EIGHT HUNDRED EIGHTY-FIVE, FOUR THOUSAND EIGHT HUNDRED EIGHTY-SIX, AND FOUR THOUSAND EIGHT HUNDRED NINETY-TWO, CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED NINETEEN, PROVIDING FOR INDEMNITY FOR CATTLE SLAUGHTERED ON ACCOUNT OF BEING AFFECTED WITH TUBERCULOSIS AND PARATUBERCULOSIS SO AS TO INCLUDE BANG'S DISEASE.

Preamble: Bang's disease.

WHEREAS, Bang's disease is a serious infectious disease of cattle and of great economic importance to dairy farmers and a public health menace to the citizens of the State; and

Sums expended for eradication of disease.

WHEREAS, the Federal Government has in the past four years expended in North Carolina a sum in excess of one half million dollars towards the eradication of this disease, the State spending less than five per cent (5%) of this amount; and

Pro-rata contributions by State required.

WHEREAS, the Federal Government will positively not pay any indemnity after May first, one thousand nine hundred thirty-nine, for Bang's diseased cattle that are slaughtered, unless the State matches such payments; and

Problem confronting dairy farmers.

WHEREAS, dairy farmers throughout the State will, after May first, one thousand nine hundred thirty-nine, be faced with the situation of being required by health regulations to test their cows for Bang's disease and dispose of diseased animals without receiving any indemnity for same; and

Success of program for eradication.

WHEREAS, it has been estimated that more than sixty-five per cent (65%) of the Bang's diseased cattle have been eliminated as a result of more than five hundred thirty-four thousand tests; and

Discontinuance of work will cause spread of disease.

WHEREAS, it is believed that if the work is discontinued May first, one thousand nine hundred thirty-nine, the disease will rapidly spread to the herds already made free of Bang's disease; *Now, therefore,*

The General Assembly of North Carolina do enact:

C. S., Sections 4882, 4883, 4885, 4886, 4892, amended to provide indemnity payments for slaughter of cattle affected with Bang's disease.

SECTION 1. Amend Sections four thousand eight hundred eighty-two, four thousand eight hundred eighty-three, four thousand eight hundred eighty-five, four thousand eight hundred eighty-six and four thousand eight hundred ninety-two, Consolidated Statutes one thousand nine hundred nineteen, as amended by Chapter one hundred and seven, Public Laws of one thousand nine hundred twenty-nine, by adding the words "Bang's disease and" before the word "tuberculosis" whenever same appears in said sections.

SEC. 2. Amend Section four thousand eight hundred eighty-two further by striking out the words "twenty-five dollars" and inserting in lieu thereof the words "twelve dollars and fifty cents", and by striking out the words "fifty dollars" and inserting in lieu thereof the words "twenty-five dollars." C. S. 4882 further amended to decrease limitation on amount of indemnity payments by State.

SEC. 3. Amend Section four thousand eight hundred eighty-five further by adding at the end of said section the following: "*Provided*, that the State veterinarian may change the forms for making claims so as to conform to the claim forms used by the United States Department of Agriculture." C. S. 4885 further amended as to form of appraisal reports on diseased cattle.

SEC. 4. Amend Section four thousand eight hundred ninety-two by adding at the end of said section the following:
"11. Any unregistered bull." C. S. 4892, restricting indemnity payments, amended.

SEC. 5. That a sum not to exceed forty thousand dollars ($40,000.00) annually for the fiscal year one thousand nine hundred thirty-nine—one thousand nine hundred forty and one thousand nine hundred forty—one thousand nine hundred forty-one is hereby appropriated from the general fund to pay indemnity as provided for in this Act, and by Chapter sixty-two, Public Laws of one thousand nine hundred nineteen, as amended. Appropriation from general fund for payment of indemnities.

SEC. 6. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 7. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 892 CHAPTER 273

AN ACT TO PLACE THE NAME OF MRS. MINNIE LEE JOHNSON ON THE PENSION LIST.

The General Assembly of North Carolina do enact:

SECTION 1. That Mrs. Minnie Lee Johnson of Greene County, widow of Alexander Dickerson, a Confederate soldier, be and she is hereby placed on the pension roll: *Provided*, said pension hereby allowed and provided for shall be payable only after investigation and report by the Greene County Pension Board, to the effect that she is in fact the widow of a Confederate Veteran: *Provided further*, that no benefits shall be paid hereunder until when, as and if the said Mrs. Minnie Lee Johnson shall have qualified therefor under the State General Pension Laws. Mrs. Minnie Lee Johnson, of Greene County, placed on Confederate pension roll.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 895 CHAPTER 274

AN ACT FOR LIQUIDATION OF THE NORTH CAROLINA REAL ESTATE COMMISSION.

Preamble: N. C. Real Estate License Act declared unconstitutional by Supreme Court.

WHEREAS, Chapter two hundred ninety-two of the Public Laws of one thousand nine hundred thirty-seven, providing for the regulation, supervision and licensing of real estate brokers and salesmen and creating a commission for administering said law, was declared unconstitutional by a decision of the Supreme Court of North Carolina filed on March first, one thousand nine hundred thirty-nine; and

Liquidation of affairs of Real Estate Commission necessary.

WHEREAS, it is necessary to properly liquidate the affairs of the commission appointed under the provisions of said Act: *Now, therefore,*

The General Assembly of North Carolina do enact:

N. C. Real Estate Commission continued for period of 45 days from March 1, 1939.

SECTION 1. That the North Carolina Real Estate Commission appointed by the Governor under the provisions of Chapter two hundred ninety-two of the Public Laws of one thousand nine hundred thirty-seven is hereby continued for a period of forty-five days from and after the first day of March, one thousand nine hundred thirty-nine, and at the end of said time said commission shall be discontinued. During the said period of time said commission shall proceed to liquidate all the business and affairs of the said commission so as to finally dispose of all matters of an administrative nature connected with the said commission during said period, and pay the expenses of such liquidation from the special fund now standing to the credit of said commission in the hands of the State Treasurer: *Provided,* that no further fees shall be collected under the said Act and no licenses shall be hereafter issued thereunder. All of the books, papers, records and files of said commission shall be surrendered to the Secretary of State and stored by the Secretary of State for safe keeping. That all furniture and equipment of said commission shall be surrendered to the Division of Purchase and Contract for final disposition thereof.

Liquidation of business and affairs of Commission.

Reversion of balance in special fund to general fund of State.

SEC. 2. That after the said liquidation has been completed as aforesaid, any balance of the special fund standing to the credit of the said commission in the hands of the State Treasurer shall revert to the general fund of the State.

SEC. 3. That said commission on or before the date of final liquidation thereof shall file with the Governor a financial report showing a final accounting and statement of all of its business and affairs. Financial report by Commission to Governor.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 182 CHAPTER 275

AN ACT TO AMEND CHAPTER FOUR HUNDRED SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN REQUIRING THE REGISTRATION OF MOTOR VEHICLES AND REQUIRING THE PAYMENT OF FEES THEREON, ETC.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter four hundred seven of the Public Laws of one thousand nine hundred thirty-seven be, and the same is hereby, amended as follows: Ch. 407, Public Laws, 1937, Uniform Motor Vehicle Act, amended.

(a) Amend Section two, subsection (a) by striking out such subsection and inserting in lieu thereof the following: "(a) Business District—The territory contiguous to a highway where seventy-five per cent or more of the frontage thereon for a distance of three hundred (300) feet or more is occupied by buildings in use for business purposes." Section 2, subsection (a), amended to redefine "business district."

(b) Amend Section two (ff) by striking out the period at the end of said subsection and substituting in lieu thereof a semicolon and adding the words "*Provided*, that for the purposes of this Act bicycles shall be deemed vehicles, and every rider of a bicycle upon a highway shall be subject to the provisions of this Act applicable to the driver of a vehicle except those which by their nature can have no application." Section 2 (ff), amended to include bicycles in definition of "vehicles" and make provisions of Act applicable to same.

(c) Amend Section two, subsection (r-1) by adding at the end of said subsection the words: "*Provided further*, that the term "For Hire" as used herein shall include every arrangement by which the owner of a motor vehicle uses, or permits such vehicle to be used, for the transportation of the property of another for compensation, subject to the exemptions aforesaid." Section 2 (r-1) amended to define "for hire" as used in definition of "Contract hauler vehicles."

(d) Amend Section two by adding after subsection (w) and before subsection (x) a new subsection as follows: "(w-a) Resi- Section 2 further amended.

"Residential district" defined.

dential District—The territory contiguous to a highway not comprising a business district, where seventy-five per cent or more of the frontage thereon for a distance of three hundred (300) feet or more is mainly occupied by dwellings or by dwellings and buildings in use for business purposes."

Section 37, amended as to transfer of registration, etc.

(e) Amend Section thirty-seven by striking out the word "fifteen" in line one and inserting in lieu thereof the word "twenty."

Sec. 38, amended as to time for filing application for transfer of title, etc.

(f) Amend Section thirty-eight by striking out the word "fifteen" in line three and inserting in lieu thereof the word "twenty."

Sec. 48, amended to provide payment of small registration fee by certain church owned busses.

(g) Amend Section forty-eight by adding at the end of said section the words: "*Provided*, that the above exemptions from registration fees shall also apply to any church owned bus used exclusively for transporting children and parents to Sunday School and church services and for no other purpose."

Sec. 51 (a), amended.

Certificate of weight of franchise bus carriers required.

Licensing of busses weighing in excess of 22,500 lbs., prohibited.

Penalty for violations.

(h) Amend Section fifty-one, subsection (a) by adding at the end of said subsection the following: "*Provided, further*, that for the purpose of determining the maximum weight to be allowed for passenger busses to be operated upon the highways of this State in lieu of the provisions of Section eighty-two, the commissioner shall require, prior to the issuance of license, a certificate showing the weight of such bus when fully equipped for the road and no such bus shall be licensed except busses heretofore in use in this State if the weight fully equipped shall exceed twenty-two thousand five hundred (22,500) pounds; and no special permit shall be issued for any bus in excess of the limits herein specified; and the operation upon the highways of this State of a bus in excess of such limit shall be unlawful, and any person guilty thereof upon conviction shall be fined one thousand dollars ($1,000.00)."

Sec. 55 (d), amended as to failure to make report.

(i) Amend Section fifty-five, subsection (d) by striking out the word "wilfully" in line two.

Sec. 92 (e), amended as to specifications for clearance lamps on vehicles.

(j) Amend Section ninety-two, subsection (e) by striking out said subsection and inserting in lieu thereof the following: "(e) Every motor vehicle having a width at any part in excess of eighty inches shall carry two clearance lamps at the front, one at each side reflecting an amber light plainly visible under normal atmospheric conditions from a distance of five hundred feet to the front of said vehicle and two clearance lamps at the rear, one on each side and reflecting a red light visible under like conditions from a distance of five hundred feet to the rear of the vehicle. As relates to truck-trailer or tractor-trailer combinations, such lights shall be required only at the front and rear of the overall dimensions.

Sec. 103 (b), amended as to speed limitations.

(k) Amend Section one hundred three subsection (b) by adding after item four in said subsection the following: "5. Notwithstanding the foregoing prima facie limits it shall be unlawful to

drive any vehicle at a speed in excess of sixty (60) miles per hour, except those exempted in Section one hundred seven."

Article X, amended.

(l) Amend Article X by adding at the end of said article immediately after Section one hundred thirty-two a new section to be known as Section one hundred thirty-two and one half as follows: "Section one hundred thirty-two and one half—Traffic Laws apply to Persons Riding Animals or Driving Animal-drawn Vehicles. Every person riding an animal or driving any animal drawing a vehicle upon a highway shall be subject to the provisions of this Act applicable to the driver of a vehicle, except those provisions of the Act which by their nature can have no application."

Traffic laws made applicable to persons riding animals or driving animal-drawn vehicles.

Sec. 52, amended.

(m) That Section fifty-two of said chapter be further amended by adding a new subsection designated subsection (h) as follows:

Reports by operators of Diesel type motor vehicles.

(h) That every person operating a motor vehicle upon the highways of the State equipped with motors of the Diesel type shall make a report to the Commissioner of Revenue upon forms to be prescribed and furnished by the Commissioner of Revenue at least four times a year on dates to be designated by the commissioner; and such reports shall show, among other things, the purchases of motor fuel for use in said Diesel type motor and whether or not the tax levied upon motor fuels has been paid or assumed by the person from whom bought; and it shall be unlawful to operate any such motor equipment upon the highways of this State except with fuel upon which the tax has been paid. It shall be unlawful for any person, firm, or corporation operating such Diesel type motor to fail, refuse, or neglect to make returns in accordance with the forms prescribed by the Commissioner of Revenue; and any person knowingly making false returns shall be guilty of a felony.

Contents.

False returns declared felony.

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. B. 676 **CHAPTER 276**

AN ACT TO AMEND SECTIONS ELEVEN, TWENTY-FOUR, TWENTY-FIVE AND TWENTY-SIX OF CHAPTER FOUR HUNDRED TWENTY-FIVE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, ENTITLED "AN ACT TO PROVIDE FOR THE INSPECTION OF GASOLINE, KEROSENE AND OTHER PETROLEUM PRODUCTS, ETC."

The General Assembly of North Carolina do enact:

Sec. 11, Ch. 425, Public Laws, 1937, Gasoline and Oil Inspection Act, amended.

SECTION 1. That Section eleven, Chapter four hundred twenty-five, Public Laws of one thousand nine hundred thirty-seven be and the same hereby is, amended by adding at the end of said section a new paragraph as follows: The Gasoline and Oil Inspectors shall have the authority to immediately seize and seal, to prevent further sales, any dispensing pump or other dispensing device from which gasoline is offered or exposed for sale in violation of or without complying with the provisions of this Act. *Provided, however*, that this section shall not be construed to permit the destruction of any gasoline which may be blended or re-refined or offered for sale as complying with the legal specifications of a lower grade except under order of the court in which an indictment is brought for violation of the provisions of this Act. *Provided, further*, that gasoline that has been confiscated and sealed by the Gasoline and Oil Inspectors for violation of the provisions of this Act shall not be offered or exposed for sale until the Director of the Gasoline and Oil Inspection Division has been fully satisfied that the gasoline offered or exposed for sale has been blended or re-refined or properly labelled to meet the requirements of this Act and the owners of said gasoline have been notified in writing of this fact by said director and, *Provided, further*, that the permitting of blending, re-refining or properly labelling of confiscated gasoline shall not be construed to in any manner effect any indictment which may be brought for violation of this section.

Seizure of dispensing devices operated in violation of Act authorized.

Construction of section.

Regulations for sale of confiscated gasoline.

Sec. 24, as to liquid fuel carrier's permit, amended to exempt certain franchise carriers.

SEC. 2. That Section twenty-four, Chapter four hundred twenty-five, Public Laws of one thousand nine hundred thirty-seven be and the same hereby is, amended by adding before the last sentence in said section the following: "This section shall not be construed to include the carrying of motor fuel in the supply tank which is regularly connected with the carburetor of the engine of any vehicle operated by franchise carriers engaged solely in the transportation of passengers to, from and between points in North Carolina."

Sec. 25, as to requirements of possession of invoices, etc. amended to exempt certain franchise carriers.

SEC. 3. That Section twenty-five, Chapter four hundred twenty-five, Public Laws of one thousand nine hundred thirty-seven be and the same hereby is, amended by striking out the words "*Provided* this section shall not apply to franchise car-

riers" at the end of such section and inserting in lieu thereof the following: and, *provided further*, that this section shall not be construed to include the carrying of motor fuel in the supply tank which is regularly connected with the carburetor of the engine of any vehicle operated by franchise carriers engaged solely in the transportation of passengers to, from and between points in North Carolina.

Sec. 26, amended to exempt franchise carriers from requirement as to labeling of gasoline containers.

SEC. 4. That Section twenty-six, Chapter four hundred twenty-five, Public Laws of one thousand nine hundred thirty-seven be and the same hereby is, amended by striking out the following words: "*Provided further*, that this section shall not apply to franchise carriers" and inserting a period in lieu of the colon.

Conflicting laws repealed.

SEC. 5. That all laws and clauses of laws in conflict to this law be hereby repealed.

SEC. 6. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 80 CHAPTER 277

AN ACT TO AMEND THE NORTH CAROLINA WORKMEN'S COMPENSATION ACT AS TO DEPUTY SHERIFFS.

The General Assembly of North Carolina do enact:

Ch. 120, Public Laws, 1929, N. C. Workmen's Compensation Act, amended.

SECTION 1. That the North Carolina Workmen's Compensation Act, Chapter one hundred twenty, Public Laws of one thousand nine hundred twenty-nine, be amended by adding in Section two, Subsection (b), after the period following the words "and to serve for a definite term of office" and before the words in the sentence beginning "Any reference to an employee," the following: "The term 'employee' shall include deputy sheriffs and all persons acting in the capacity of deputy sheriffs, whether appointed by the Sheriff or by the governing body of the county and whether serving on a fee basis or on a salary basis, or whether deputy sheriffs serving upon a full time basis or a part time basis, and including deputy sheriffs appointed to serve in an emergency, but as to those so appointed, only during the continuation of the emergency. The Sheriff shall furnish to the Board of County Commissioners a complete list of all deputy sheriffs named or appointed by him immediately after their appointment, and notify the Board of Commissioners of any changes made therein promptly after such changes are made."

Sec. 2 (b), amended to include deputy sheriffs, in definition of "employee."

List of deputy sheriffs to be furnished to Board of County Commissioners by Sheriff.

Sec. 2 (c), amended.

And Section two, Subsection (c) of said Act shall be amended by adding at the end of Subsection (c) the following: "The Board of Commissioners of each county of the State, for the purposes

Boards of County Commissioners deemed to be "employer" of deputy sheriffs.

of this law, shall be considered as 'employer' of all deputy sheriffs serving within such county, or persons serving or performing the duties of a deputy sheriff, whether such persons are appointed by the Sheriff or by the Board of Commissioners and whether serving on a fee basis or salary basis. Each county is authorized to insure its compensation liability for deputy sheriffs to the same extent it is authorized to insure other compensation liability for employees thereof."

Compensation insurance coverage for deputy sheriffs.

Sec. 29, amended, to provide minimum compensation.

That Section twenty-nine of said Act be amended by adding at the end thereof, the following: "That the basis for compensation of deputy sheriffs, or those acting in the capacity of deputy sheriffs, who serve upon a fee basis shall be the minimum amount of seven dollars a week as fixed herein."

Ch. 274, Public Laws, 1931, amended.

SEC. 2. That Chapter two hundred seventy-four of the Public Laws of one thousand nine hundred thirty-one be amended by striking out all of Section two thereof, said section so stricken out reading as follows:

Sec. 17 of Workmen's Compensation Act, amended to authorize exemption of sheriff and deputies from provisions of Act.

"SEC. 2. Amend Section seventeen by adding at the end thereof the following: '*Provided, however,* that any Sheriff may exempt himself and any and all deputies appointed by him from the provisions of this Act by notice in writing to the Industrial Commission, such notice to be made on forms prescribed by the Industrial Commission'."

Counties exempt.

SEC. 3. That this Act shall not apply to Pender, Cherokee, Avery, Perquimans, Gates, Macon, Watauga, Ashe, Union, Wilkes, Hyde, Caswell, Bladen and Carteret Counties.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. That this Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. B. 134 CHAPTER 278

AN ACT TO HELP TRAIN AND IMPROVE THE MORALE OF THE CHILDREN AT CASWELL TRAINING SCHOOL.

The General Assembly of North Carolina do enact:

Expenditure of sums by Superintendent of Caswell Training School for student work authorized.

SECTION 1. That the Superintendent of Caswell Training School is hereby authorized and empowered in his discretion, when funds are available, to pay children of the school for work done at the Caswell Training School: *Provided,* that the amount of money so expended shall not exceed fifteen hundred dollars ($1,500.00) in any one fiscal year.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. B. 135 **CHAPTER 279**

AN ACT TO AMEND SECTION ONE THOUSAND ONE HUNDRED AND TWENTY-SIX OF THE CONSOLIDATED STATUTES, RELATING TO SALES OF CORPORATE PROPERTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Subsection nine of Section one thousand one hundred and twenty-six of the Consolidated Statutes, being Chapter two hundred and thirty-five of the Public Laws of one thousand nine hundred twenty-five as amended, be and the same is hereby repealed and the following Subsections nine, ten and eleven enacted in lieu thereof: C. S. 1126, amended as to powers of corporations, and procedure for sale of corporate property.

"Sub-sec. 9. To sell, transfer and convey any part of its corporate property in the course of its regular business.

"Sub-sec. 10. To sell, transfer and convey any part of its corporate real or personal property when authorized so to do by its board of directors.

"Sub-sec. 11. To sell, transfer and convey all of its corporate property when authorized so to do by its board of directors and approved by a two-thirds vote of the stock entitled to vote at any stockholders meeting, notice of which contains notice of the proposed sale: *Provided*, this Act shall not be construed as authorizing any public utility corporation to sell or convey all of its property otherwise than under the terms prescribed in its charter, or as authorizing the sale of stock in bulk, in violation of the Bulk Sales Law." Sale of stock in bulk by public utility corporation.

SEC. 2. That this Act shall be in force and effect from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. B. 170 **CHAPTER 280**

AN ACT TO AMEND CHAPTER ONE HUNDRED AND FIFTY-FIVE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE, BEING AN ACT TO REGULATE AND CONTROL THE PRACTICE OF PHOTOGRAPHY SO AS TO REDEFINE THE PRACTICE OF PHOTOGRAPHY AND TO EXEMPT THEREFROM CERTAIN PHOTOGRAPHS SOLD TO NEWSPAPERS AND AMATEUR PHOTOGRAPHERS OCCASIONALLY SELLING PHOTOGRAPHS.

The General Assembly of North Carolina do enact:

Sec. 1, Art. I, Ch. 155, Public Laws, 1935, amended.

SECTION 1. That Section one of Article one of Chapter one hundred and fifty-five, Public Laws of one thousand nine hundred and thirty-five, is hereby amended by striking out the comma between the word "profession" and the word "occupation" in the definition of "The practice of photography", and inserting in lieu thereof the word "or", and by striking out the comma and the words "or avocation" following the word "occupation."

"Practice of photography" redefined.

Sec. 1, Art. VIII, amended as to persons exempt from provisions of Act.

SEC. 2. Section one of Article VIII of Chapter one hundred and fifty-five, Public Laws of one thousand nine hundred and thirty-five; is hereby amended by striking out Subsection (a) thereof and substituting a new Subsection (a) to read as follows:

Persons in employ or acting under contract with newspapers, etc.

"(a) Persons in the employ of or acting under contract to newspapers or periodical publications: *Provided,* that this exemption shall apply only with respect to negatives and photographs made for newspapers and publication: and *Provided further,* that such negatives or photographs are not sold or offered for sale, or otherwise disposed of for profit to any purchaser or user other than newspapers, publications, press agencies or associations serving newspapers and publications."

Exemption of press photographers.

"(b) The provisions of Chapter one hundred and fifty-five, Public Laws of one thousand nine hundred and thirty-five, and all amendments thereto shall not apply to press photographers with regard to the unsolicited sale of negatives and prints made on regular press assignments."

Sec. 1, Art. VIII, further amended as to exemptions.

SEC. 3. Section one of Article VIII of Chapter one hundred and fifty-five, Public Laws of one thousand nine hundred and thirty-five, is hereby further amended by striking out Subsection (b) thereof and substituting a new Subsection (b) to read as follows:

Photographs for personal use and occasional sale.

"(b) Any person (not regularly engaged in an occupation in which his compensation depends, in whole or in part, upon

his making of negatives or photographs) who makes negatives or photographs for his own pleasure and occasionally sells or offers for sale a negative or photograph so made by him: *Provided,* that this exemption shall not extend to any person who solicits or accepts orders for such negatives, or prints or photographs made therefrom, before such negatives are made."

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. B. 200 CHAPTER 281

AN ACT TO AMEND CHAPTER TWO HUNDRED TEN PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-THREE, AS AMENDED RELATING TO THE NORTH CAROLINA STATE BAR TO DEAL WITH UNAUTHORIZED OR ILLEGAL PRACTICE OF LAW.

The General Assembly of North Carolina do enact:

Ch. 210, Public Laws, 1933, amended.

SECTION 1. That Chapter two hundred ten of the Public Laws of North Carolina of one thousand nine hundred thirty-three as amended, be further amended by adding thereto the following sections:

N. C. State Bar authorized to investigate unauthorized or unlawful practice of law.

"SEC. 22. The council or any committee of its members appointed for that purpose may inquire into and investigate any charges or complaints of unauthorized or unlawful practice of law, and the council may bring or cause to be brought and maintain in the name of the North Carolina State Bar an action or actions, upon information or upon the complaint of any private person or of any bar association and no bond for cost shall be required in such proceeding.

Actions against persons, partnerships, etc. engaging in unauthorized or unlawful practice.

(a) Against any person, partnership, corporation or association and any employee, agent, director, or officer thereof who engages in rendering any legal service or makes it a practice or business to render legal services which are unauthorized or prohibited by law or statutes relative thereto.

Final judgment for perpetual restraint of unauthorized practice.

(b) In an action brought under this amendment to the Act the final judgment if in favor of the plaintiff shall perpetually restrain the defendant or defendants from the commission or continuance of the act or acts complained of. A temporary injunction to restrain the commission or continuance thereof

Temporary injunction granted upon proof or affidavit of unauthorized practice.

may be granted upon proof or by affidavit, that the defendant or defendants have violated any of the laws or statutes applicable to unauthorized or unlawful practice of law. The provisions of statute or rules relating generally to injunctions as provisional remedies in actions shall apply to such a temporary injunction and the proceedings thereunder.

Venue of actions.

(c) The venue for actions brought under this amendment to the Act shall be the Superior Court of any county in which such acts constituting unauthorized or unlawful practice of law are alleged to have been committed or in which there appear reasonable grounds that they will be committed or in the county where the defendants in such action reside.

Right of plaintiff to examine parties, etc. before filing of complaint and before trial.

(d) The plaintiff in such action shall be entitled to examination of the adverse party and witnesses before filing complaint and before trial in the same manner as provided by law for the examination of parties.

Construction of Act.

(e) This amendment to the Act shall not repeal or curtail any remedy now provided in cases of unauthorized or unlawful practice of law, and nothing contained herein shall be construed as disabling or abridging the inherent powers of the court in such matters."

SEC. 2. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. B. 349 CHAPTER 282

AN ACT TO AMEND CHAPTER TWO HUNDRED TWENTY-NINE (229) OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE (1931) RELATIVE TO THE MANUFACTURE AND SALE OF OLEOMARGARINE.

The General Assembly of North Carolina do enact:

Sec. 3, Ch. 229, Public Laws, 1931, amended to exempt retailers of uncolored oleomargarine from license requirements.

SECTION 1. That Section three (3) of Chapter two hundred twenty-nine (229) of the Public Laws of one thousand nine hundred thirty-one (1931) be and the same is hereby amended by changing the period after the word "Agriculture" in line six (6) of said section to a comma, and adding thereafter the following words:

"but this provision shall not apply to any person engaged in the retail sale of oleomargarine."

SEC. 2. That Section three (3) of Chapter two hundred twenty-nine (229) of the Public Laws of one thousand nine hundred thirty-one (1931) be and the same is hereby amended by striking out in lines twelve (12), thirteen (13) and fourteen (14) thereof the following words:

Sec. 3, further amended to provide $75 annual tax on each separate establishment of distributor.

"If a manufacturer, one thousand dollars ($1,000.00) annually; if a wholesaler or distributor, the sum of one hundred dollars ($100.00) annually." and inserting in lieu thereof the words:

"If a wholesaler or distributor, the sum of seventy-five dollars ($75.00) annually for each separate plant or establishment operated or maintained in this State by such wholesaler or distributor."

SEC. 3. That Section four (4) of Chapter two hundred twenty-nine (229) of the Public Laws of one thousand nine hundred thirty-one (1931) be and the same is hereby amended by adding at the end thereof the following words:

Sec. 4, amended to exempt boarding houses from requirement of display of signs.

"That the provisions of this section shall not apply to boarding houses. A boarding house is defined as being any person or establishment selling or offering for sale meals under contract, only on a daily basis or multiple of days."

Boarding house defined.

SEC. 4. That all laws and clauses of law in conflict herewith are hereby repealed.

Conflicting laws repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. B. 356 CHAPTER 283

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED AND FORTY-THREE OF VOLUME THREE OF THE CONSOLIDATED STATUTES, AS AMENDED BY CHAPTER TWENTY-NINE, PUBLIC LAWS, ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, RELATING TO THE COURTS OF JONES COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand four hundred and forty-three of Volume three of the Consolidated Statutes as amended by Chapter twenty-nine, Public Laws, one thousand nine hundred and thirty-seven, be and the same is hereby amended by inserting between the word "March" and the word

C. S., Vol. 3, section 1443, amended.

Additional civil term of Superior Court, Jones County.

"fifth" in the first line of the subsection headed "Jones" the words "third Monday before the first Monday in September to continue for one week for civil cases only."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. B. 369 CHAPTER 284

AN ACT TO AMEND CHAPTER FIFTY-THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-SEVEN, AND TO REPEAL CHAPTERS ONE HUNDRED NINETY-SIX OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-NINE AND TWO HUNDRED THIRTY-THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-THREE, RELATING TO THE MANUFACTURE AND SALE OF INSECTICIDES AND FUNGICIDES IN NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Ch. 53, Public Laws, 1927, relating to manufacture and sale of insecticides and fungicides, amended.

SECTION 1. That Chapter fifty-three of the Public Laws of one thousand nine hundred twenty-seven be, and the same is hereby amended by striking out all of Sections five, six and seven and substituting in lieu thereof, the following:

Registration fee.

"SECTION 5. That all manufacturers or distributors, for the purpose of defraying the expenses connected with the enforcement of this Act, before selling, offering or exposing for sale in this State any Paris green, calcium arsenate, lead arsenate or any other insecticides and fungicides, shall pay annually to the Department of Agriculture a registration fee of ten dollars ($10.00) for each and every brand of the aforementioned insecticides and fungicides registered as required under Section two of this Act. All certificates of registration shall expire on the thirty-first day of December next following the date of issuance and shall be subject to renewal upon receipt of annual registration fees.

Expiration date of certificates of registration.

Renewals.

Issuance of certificates of registration to manufacturers or distributors.

"SECTION 6. To manufacturers or distributors who have duly registered their brands and have paid registration fees on Paris green, calcium arsenate, lead arsenate or other insecticides and fungicides in compliance with the requirements of this Act, there shall be issued by the Department of Agriculture certificates which shall entitle said manufacturers or distributors to sell all duly

registered brands until the expiration of such certificates as provided under Section five. When any manufacturer or distributor shall have duly complied with the provisions of this Act, no other agency representing such manufacturer or distributor shall be required to register or pay registration fees on such brands as have been duly registered. It shall be unlawful for any manufacturer or distributor, or their agents to sell, offer or expose for sale in this State any of the aforementioned insecticides or fungicides which have not been duly registered and for which annual registration fees have not been paid.

No license required of agencies representing manufacturer or distributor of registered brands.

Sale of unregistered insecticides or fungicides prohibited.

"SECTION 7. That for the purpose of safeguarding the legitimate uses of Paris green, calcium arsenate, lead arsenate and all other insecticides and fungicides and to prevent the poisoning of man or animal by confusion with or mixing the foods and feeds, either by accident or intent, it shall be required as a qualification for registration that all such aforesaid insecticides and fungicides which are likely to be confused with or which are not readily apparent when mixed with such foods or feeds, shall bear or contain some identifying added color or medium to differentiate them from, or to show their presence when contained in such foods or feeds; *provided* that no commodity intended for insecticidal, fungicidal or similar purposes which is already developed, or new products for these purposes which may appear from time to time shall be excluded from registration where there is not available or has not been developed a suitable identifying color or medium; and, *provided* that in the absence of a suitable identifying color or medium, the commissioner shall have authority himself or through representatives designated by him to cooperate with manufacturers and distributors in the development of suitable safeguards; final decision, with due right of appeal, resting in the discretion of the Board of Agriculture."

Identifying color required for differentiation.

Other suitable safeguards provided by Commissioner of Agriculture.

SEC. 2. That Section nine of Chapter fifty-three of the Public Laws of one thousand nine hundred twenty-seven be, and the same is hereby amended by adding at the end of said section, the following: "Where a method of analysis is required before the Association of Official Agricultural Chemists has adopted an official or tentative one, and pending appearance of an official method by the Association of Official Agricultural Chemists, such methods as may be available or may be developed, subject to approval by the Board of Agriculture, may be used; *provided* that such method upon being used shall be immediately available for use and checking to all persons, firms or corporations concerned, and results from such methods shall be subject to a reasonable period of consideration and hearings before any proceedings based upon them are instituted."

Section 9, amended.

Tentative method of analysis.

SEC. 3. That Section ten of Chapter fifty-three of the Public Laws of one thousand nine hundred twenty-seven be, and the same is hereby amended by striking out all of the first sentence

Section 10, amended.

in said section down to the sentence beginning with the words "Paris green" and substituting in lieu of said sentence and at the beginning of said section, the following: "It shall be unlawful for any manufacturer or distributor to sell, offer or expose for sale in this State any Paris green, calcium arsenate, lead arsenate or any other insecticides or fungicides which are adulterated or misbranded within the meaning of this Act. Any Paris green, calcium arsenate, lead arsenate and any other insecticide or fungicide shall be deemed to be adulterated if its strength or purity fall below the professed standard or quality under which it is sold; or if any substance has been substituted wholly or in part for the article; or if any valuable constituent of the article has been wholly or in part abstracted; or if it be in any way depreciated or be in departure from the true and honest value represented."

Sale of adulterated or misbranded insecticides or fungicides, prohibited.

Adulterated within meaning of Act, defined.

Ch. 196, Public Laws, 1929, and 233, Public Laws, 1933, repealed.

SEC. 4. That Chapters one hundred ninety-six of the Public Laws of one thousand nine hundred twenty-nine and two hundred thirty-three of the Public Laws of one thousand nine hundred thirty-three be, and the same are hereby repealed.

Conflicting laws repealed.

SEC. 5. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 6. That this Act shall be in full force and effect from and after the first day of January, one thousand nine hundred forty.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. B. 370 CHAPTER 285

AN ACT PROVIDING FOR PUBLIC WEIGH MASTERS AND DEFINING THEIR POWERS AND DUTIES.

The General Assembly of North Carolina do enact:

Public weigh masters defined.

SECTION 1. Any person, either for himself or as a servant or agent of any other person, firm, or corporation, or who is elected by popular vote, who shall weigh, or measure, or count, or who shall ascertain from, or record the indications or readings of, a weighing, or measuring, or recording, device or apparatus for any other person, firm or corporation, and declare the weight, or measure, or count, or reading or recording to be the true weight, or measure, or count, or reading, or recording of any commodity, thing, article, or product upon which the purchase, or sale, or exchange, is based, and make a charge for, or collect pay, a fee, or any other compensation for such act and shall issue a certificate of weight, or measure, or count, in accordance with the provisions of this Act, shall be licensed

and shall be known as a public weigh master in the State of North Carolina. License required of public weigh masters.

SEC. 2. Any person desiring to be a public weigh master in this State shall apply for and obtain license permit from the State of North Carolina through the State Superintendent of Weights and Measures by filing formal application as follows: Application for license permit.

"I, ..., a citizen of the United States, residing at ....., county of ....., have familiarized myself with the law and that with full knowledge of the provisions contained therein relative to licensing of public weigh master, do hereby file application for license permit to be issued accordingly. Form of application.

I certify that I am of sound mind and am physically fit to perform the duties imposed upon a public weigh master and that I will, if licensed, abide by and enforce all laws, rules and regulations relating to the public weigh master Act to the best of my knowledge and ability.

I, ..., ...,) Being a citizen of this State
Name address) and of good moral charac-
I, ..., ...,) ter, not related to the ap-
Name address) plicant by blood or mar-
I, ..., ...,) riage, do hereby certify
Name address) that the statement of applicant is true to the best of my knowledge and belief and that my endorsement is without fear or embarrassment."

SEC. 3. It shall be the duty of every public weigh master licensed by this Act to issue a certificate of weight, measure, count, reading, or recording on forms approved by the State Superintendent of Weights and Measures, and to enforce the provisions of this Act, together with rules and regulations relating thereto. Said public weigh master shall not receive compensation from the State for the duties so performed. Forms of certificates of weight, etc. to be approved by State Superintendent of Weights and Measures. No compensation from State.

SEC. 4. It shall be the duty of every public weigh master so licensed by this Act, to obtain from the State Department of Weights and Measures an official seal, which seal shall have inscribed thereon the following words: "North Carolina Public Weigh Master" and such other design and/or legend as the State Superintendent of Weights and Measures may deem appropriate. The seal shall be stamped or impressed upon each and every weight, measure, numerical count, reading or recording certificate issued by such public weigh master, and when so applied the certificate shall be recognized and accepted as a declaration of the official, true, and accurate and undisputed weight, measure, count, reading or recording of the commodity, product, or article weighed, or measured, or count- Official seal of public weigh masters. Seal to be impressed on all certificates.

ed within the tolerance allowed by the "Uniform Weights and Measures Act" of this State.

Violations of provisions by weight masters, made misdemeanor.

SEC. 5. Any public weigh master who shall refuse to issue a certificate as prescribed by this Act, or who shall issue a certificate giving a false weight, or measure, or count, or reading, or recording, or who shall misrepresent the weight, or measure, or count, or reading or recording of the quantity of any commodity, produce or article to any person, firm or corporation, or who shall otherwise violate any of the provisions of this Act shall be guilty of misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00), or by imprisonment for not more than three months, or by both such fine and imprisonment in the discretion of the court, and, in addition thereto, his license shall be revoked and he shall forfeit his seal which, when so forfeited, shall be turned over to the State Superintendent of Weights and Measures or his agents.

Revocation of license and forfeiture of seal.

Requesting weight master to falsify weights, etc. misdemeanor.

SEC. 6. Any person, firm, or corporation who shall request a public weigh master to weigh, measure, count, read, or record any commodity, product or article falsely or incorrectly, or who shall request a false or inaccurate certificate of weight, measure, count, reading or recording, or any person issuing a certificate of weight, or measure, or count, or reading, or recording within the meaning of this Act, who is not a public weigh master as provided for by this Act, or who shall act as, or for, or in any way impersonate, a public weigh master, or who shall erase, change, or alter any certificate issued by public weigh master, or who shall make incorrect the certificate by increasing or decreasing the weight or measure or count of the commodity, product or article certified to for the purpose of deception, or who shall violate any provision of this Act for which a special penalty has not been provided, shall be guilty of misdemeanor and upon conviction thereof shall be punished by a fine of not less than ten dollars ($10.00) nor more than five hundred dollars ($500.00), or by imprisonment for not more than three months, or by both such fine and imprisonment in the discretion of the court.

Impersonation of weight master made misdemeanor.

Alteration of certificate, etc. made misdemeanor.

Certificates of weight masters presumed accurate and correct.

SEC. 7. When a public weigh master certificate is used in the sale, or purchase, or barter, or exchange of any commodity, produce, or article, the certified weight, or measure, or count or reading or recording shall be deemed to be the true, accurate and undisputed weight, or measure, or count, or reading or recording at time said commodity, produce, or article, is put into the natural channels of trade, which is, at the time of sale or purchase or barter or exchange: *Provided, however*, that reasonable variations, or tolerances shall be permitted as

established by rules and regulations as provided for by Uniform Weights and Measures Act and: *Provided, further,* that there is no written contract or agreement to the contrary.

Duty of custodian of product during time intervening between weighing, issuance of certificate.

SEC. 8. If any commodity, product or article is to be offered for sale, or sold and is weighed or measured or counted by any public weigh master and a certificate issued prior to sale, or acceptance of such commodity, product or article by the purchaser, his agent, or consignee or, if any commodity product or article is offered for sale, sold, and/or delivered pending the weighing or measuring or counting of such commodity, product, or article by a public weigh master and the issuance of a certificate, the person, firm or corporation in whose custody said commodity, product or article is, shall keep, protect and prevent any increase or decrease in weight, measure or count, in the interim so that the declaration of weight, or measure, or count shall be true in accordance with Section seven of this Act. The term "interim" as used in this section shall be construed to mean the time intervening between the weighing and issuance of certificate and the sale or purchase; and the time intervening between the sale or purchase and the presentation of such commodity, product, or article to the public weigh master for weighing, or measuring or counting, and the issuance of certificate. Any loss sustained in the weight or measure or count of any commodity, produce, or article while in custody shall be borne by the person, firm or corporation in whose custody said commodity, produce, or article is.

Liability of custodian.

Complaints to weight master or State Supt. of Weights and Measures as to correctness of certificate.

SEC. 9. When doubt or difference arise as to the correctness of the weight, or measure, or count, or reading, or recording of any amount or part of any commodity, product, or article for which a certificate of weight, measure, count, reading or recording, has been issued by a public weigh master, the owner, agent or consignee shall make complaint to the public weigh master issuing said certificate or to the State Superintendent of Weights and Measures setting forth cause or causes for such doubt and/or difference, and have said amount, or part of the amount, or any commodity, product, or article reweighed, or remeasured, or recounted by weigh master issuing certificate, or by the State Superintendent of Weights and Measures of his agents. If, on reweighing, remeasuring or recounting, a difference in original weight, or measure or count, is sustained as a result of fraud, or carelessness, or faulty apparatus, the cost of reweighing or remeasuring or recounting shall be borne by the public weigh master responsible for the issuance of such faulty certificate; otherwise, the cost shall be borne by the complainant.

Reweighing or remeasuring.

Liability for cost.

Approval by State Supt. of Weights and Measures of devices used.

SEC. 10. It shall be unlawful for any public weigh master to use any weights or measures, or weighing or measuring or reading or recording device, which has not been tested and/or approved by the State Superintendent of Weights and Measures, or his assistant or deputy or inspector in accordance with the "Uniform Weights and Measures Act" and/or the rules and regulations governing same.

Annual license for public weight masters.

SEC. 11. Public weigh masters shall be licensed for a period of one year from the date of issuance thereof, and a fee of five dollars ($5.00) shall be paid by each person so licensed to the State Superintendent of Weights and Measures at time of filing application, as set forth in Section two of this Act, which fee shall be deposited with the State Treasurer of North Carolina by the said State Superintendent of Weights and Measures, and shall be kept in a separate and distinct fund designated as a special uniform weights and measures fund by said treasurer, and shall be disbursed by him under the terms of the Executive Budget Act: *Provided*, that a similar fee, as provided in this section, shall be required of all renewals of license as a public weigh master, which fee shall also be turned into the Treasurer of the State by the State Superintendent of Weights and Measures, to be expended in the manner herein set out.

Uniform weights and measures fund.

Renewal fees.

Use of fees collected.

SEC. 12. All monies collected by this Act shall be used exclusively for the enforcement of this and the Uniform Weights and Measures Act.

Seal obtained from State Supt. of Weights and Measures.

SEC. 13. Each public weigh master licensed under this Act shall obtain from the State Superintendent of Weights and Measures the seal, as provided for by this Act, and pay the sum of two dollars and fifty cents ($2.50), which sum shall be for the use of said seal, and no additional charges shall be made as long as the public weigh master is licensed in accordance with the provisions of this Act. Monies collected under this section shall be deposited with the State Treasurer of North Carolina and expended for the purposes of this Act under the terms of the Executive Budget Act. The State Superintendent of Weights and Measures shall issue to the public weigh master the said seal upon receipt of said sum. All seals as issued to the public weigh masters shall be paid for out of the special uniform weights and measures fund.

Seal declared property of State.

SEC. 14. The seal herein provided for shall be the property of the State of North Carolina and shall be forfeited and returned to the State Superintendent of Weights and Measures upon termination of the performance of duties herein described as being the duties of a public weigh master. Failure or refusal of a person licensed as a public weigh master under this Act to return, turn over, or surrender the official seal furnished

Returned upon discontinuance of duties.

by the State Superintendent of Weights and Measures upon expiration of term of license or for malfeasance in office, shall be guilty of misdemeanor and upon conviction thereof shall forfeit amount paid for use of such seal and shall be punished by fine of not less than ten dollars ($10.00) nor more than two hundred dollars ($200.00), or by imprisonment for not more than three months, or both, such fine and imprisonment, in the discretion of the court.

Refusal to surrender seal made misdemeanor.

SEC. 15. If any clause or other portion of this Act is held invalid, that decision shall not affect the validity of the remaining portions of this Act.

Partial invalidity clause.

SEC. 16. All laws and clauses of laws inconsistent or in conflict with the provisions of this Act be and the same are hereby repealed.

SEC. 17. That this Act shall take effect sixty days after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. B. 374 **CHAPTER 286**

AN ACT TO AMEND THE FERTILIZER, FEED, AND COTTON SEED MEAL LAWS.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter one hundred forty-three, Section twelve, Public Laws one thousand nine hundred seventeen (four thousand seven hundred two Consolidated Statutes); Chapter two hundred forty-two, Section one, Public Laws one thousand nine hundred seventeen (four thousand seven hundred four Consolidated Statutes); and Chapter one hundred forty-nine, Section six, Public Laws one thousand nine hundred nine (four thousand seven hundred thirty Consolidated Statutes) as amended, be amended by striking out the words "twenty" wherever same appears in said sections and adding in lieu thereof the words "twenty-five."

Sec. 12, Ch. 143, Public Laws, 1917; Sec. 1, Ch. 242, Public Laws, 1917; Sec. 6, Ch. 149, Public Laws, 1909, amended to increase inspection fee on fertilizer, feed, and cotton seed meal.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after July one, one thousand nine hundred thirty-nine.

Effective date.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 320 **CHAPTER 287**

AN ACT AUTHORIZING CITIES AND TOWNS HAVING A POPULATION OF MORE THAN FIVE THOUSAND TO ADOPT ORDINANCES RELATING TO THE REPAIR, CLOSING AND DEMOLITION OF DWELLINGS UNFIT FOR HUMAN HABITATION; AND PROVIDING FOR THE REMEDIES AND PROCEDURE IN CONNECTION WITH ACTION TAKEN UNDER SUCH ORDINANCES.

The General Assembly of North Carolina do enact:

Municipal dwellings unfit for human habitation declared dangerous and injurious to people of State.

SECTION 1. Unfit Dwellings in Municipalities— Exercise of Police Power Authorized. It is hereby found and declared that the existence and occupation of dwellings in municipalities of this State which are unfit for human habitation are inimical to the welfare, and dangerous and injurious to the health, safety and morals of the people of this State, and that a public necessity exists for the repair, closing or demolition of such dwellings. Whenever any municipality of this State finds that there exists in such municipality dwellings which are unfit for human habitation due to dilapidation, defects increasing the hazards of fire, accidents or other calamities, lack of ventilation, light or sanitary facilities, or due to other conditions rendering such dwellings unsafe or insanitary, or dangerous or detrimental to the health, safety or morals, or otherwise inimical to the welfare of the residents of such municipality, power is hereby conferred upon such municipality to exercise its police powers to repair, close or demolish the aforesaid dwellings in the manner herein provided.

Exercise of police powers by municipalities to repair, close or demolish unfit dwellings.

Definitions.

SEC. 2. Definitions. The following terms whenever used or referred to in this Act shall have the following respective meanings for the purposes of this Act, unless a different meaning clearly appears from the context:

"Municipality."

(a) "Municipality" shall mean any city or town having a population of more than twenty-five thousand (according to the last Federal census).

"Governing body."

(b) "Governing body" shall mean the council, board of commissioners, board of aldermen, or other legislative body, charged with governing a municipality.

"Public officer."

(c) "Public officer" shall mean the officer or officers who are authorized by ordinances adopted hereunder to exercise the powers prescribed by such ordinance and by this Act.

"Public authority."

(d) "Public authority" shall mean any housing authority or any officer who is in charge of any department or branch of the government of the municipality, county or State relating to health, fire, building regulations, or to other activities concerning dwellings in the municipality.

"Owner."

(e) "Owner" shall mean the holder of the title in fee simple and every mortgagee of record.

"Parties in interest."

(f) "Parties in interest" shall mean all individuals, associations and corporations who have interests of record in a dwelling and any who are in possession thereof.

"Dwelling."

(g) "Dwelling" shall mean any building, or structure, or part thereof, used and occupied for human habitation or intended to be so used, and includes any outhouses and appurtenances belonging thereto or usually enjoyed therewith.

Adoption of ordinance of existence of unfit dwellings.

SEC. 3. Ordinance Authorized as to Repair, Closing and Demolition—Order of Public Officer. Upon the adoption of an ordinance finding that dwelling conditions of the character described in Section one hereof exist within a municipality, the governing body of such municipality is hereby authorized to adopt ordinances relating to the dwellings within such municipality which are unfit for human habitation. Such ordinances shall include the following provisions:

Contents.

Public officer to be appointed.

(a) That a public officer be designated or appointed to exercise the powers prescribed by the ordinances.

Issuance of complaint by public officer to owner and parties in interest.

(b) That whenever a petition is filed with the public officer by a public authority or by at least five residents of the municipality charging that any dwelling is unfit for human habitation or whenever it appears to the public officer (on his own motion) that any dwelling is unfit for human habitation, the public officer shall, if his preliminary investigation discloses a basis for such charges, issue and cause to be served upon the owner of and parties in interest in such dwelling a complaint stating the charges in that respect and containing a notice that a hearing will be held before the public officer (or his designated agent) at a place within the county in which the property is located therein fixed not less than ten days nor more than thirty days after the serving of said complaint; that the owner and parties in interest shall be given the right to file an answer to the complaint and to appear in person, or otherwise, and give testimony at the place and time fixed in the complaint; and that the rules of evidence prevailing in courts of law or equity shall not be controlling in hearings before the public officer.

Service of complaint.

Notice of hearing.

Right of owner and parties in interest to file answer, etc.

Findings of public officer.

(c) That if, after such notice and hearing, the public officer determines that the dwelling under consideration is unfit for human habitation he shall state in writing his findings of fact in support of such determination and shall issue and cause to be served upon the owner thereof an order,

Order requiring owner to repair, alter or improve dwelling if same can be done at reasonable cost.

(1) if the repair, alteration or improvement of the said dwelling can be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality may fix a certain percentage of such cost as being reasonable for such purpose),

requiring the owner, within the time specified, to repair, alter or improve such dwelling to render it fit for human habitation or to vacate and close the dwelling as a human habitation; or

Order requiring owner within specified time to remove or demolish dwelling.

(2) if the repair, alteration or improvement of the said dwelling cannot be made at a reasonable cost in relation to the value of the dwelling (the ordinance of the municipality may fix a certain percentage of such cost as being reasonable for such purpose), requiring the owner, within the time specified in the order, to remove or demolish such dwelling.

Alteration, etc. by public officer upon failure of owner to comply with order.

(d) That, if the owner fails to comply with an order to repair, alter or improve or to vacate and close the dwelling, the public officer may cause such dwelling to be repaired, altered or improved or to be vacated and closed; that the public officer may cause to be posted on the main entrance of any dwelling so closed, a placard with the following words: "This building is unfit for human habitation; the use or occupation of this building for human habitation is prohibited and unlawful."

Public officer may post notice of unfitness of building.

Removal or demolition of dwelling by public officer.

(e) That, if the owner fails to comply with an order to remove or demolish the dwelling, the public officer may cause such dwelling to be removed or demolished: *Provided, however,* that the duties of the public officer set forth in subsections (d) and (e) shall not be exercised until the governing body shall have by ordinance ordered the public officer to proceed to effectuate the purpose of this Act with respect to the particular property or properties which the public officer shall have found to be unfit for human habitation and which property or properties shall be described in the ordinance.

Cost of removal, alteration, etc. declared lien against real property.

(f) That, the amount of the cost of such repairs, alterations or improvements, or vacating and closing, or removal or demolition by the public officer shall be a lien against the real property upon which such cost was incurred. If the dwelling is removed or demolished by the public officer, he shall sell the materials of such dwellings and shall credit the proceeds of such sale against the cost of the removal or demolition and any balance remaining shall be deposited in the Superior Court by the public officer, shall be secured in such manner as may be directed by such court, and shall be disbursed by such court to the persons found to be entitled thereto by final order or decree of such court: *Provided, however,* that nothing in this section shall be construed to impair or limit in anyway the power of the municipality to define and declare nuisances and to cause their removal or abatement by summary proceedings, or otherwise.

Sale of materials of demolished dwellings.

Disbursement of proceeds.

SEC. 4. Standards. An ordinance adopted by a municipality under this Act shall provide that the public officer may determine that a dwelling is unfit for human habitation if he finds that conditions exist in such dwelling which are dangerous or injurious to the health, safety or morals of the occupants of such dwelling,

Ordinance authorizing public officer to determine a dwelling unfit for habitation.

the occupants of neighboring dwellings or other residents of such municipality; such conditions may include the following (without limiting the generality of the foregoing): Defects therein increasing the hazards of fire, accident, or other calamities, lack of adequate ventilation, light, or sanitary facilities; dilapidation; disrepair; structural defects; uncleanliness. Such ordinance may provide additional standards to guide the public officer, or his agents, in determining the fitness of a dwelling for human habitation.

Conditions of unfitness.

Additional standards for determination of fitness of dwelling.

SEC. 5. Service of complaints and Orders. Complaints or orders issued by a public officer pursuant to an ordinance adopted under this Act shall be served upon persons either personally or by registered mail, but if the whereabouts of such persons is unknown and the same cannot be ascertained by the public officer in the exercise of reasonable diligence, and the public officer shall make an affidavit to that effect; then the serving of such complaint or order upon such persons may be made by publishing the same once each week for two successive weeks in a newspaper printed and published in the municipality, or, in the absence of such newspaper, in one printed and published in the county and circulating in the municipality in which the dwellings are located. A copy of such complaint or order shall be posted in a conspicuous place on premises affected by the complaint or order. A copy of such complaint or order shall also be filed in the proper office or offices for the filing of lis pendens notices in the county in which the dwelling is located and such filing of the complaint shall have the same force and effect as other lis pendens notices provided by law.

Service of complaints and orders.

Service by publication.

Posting of copy of complaint or order.

Filing of complaint or order.

SEC. 6. Remedies. Any person affected by an order issued by the public officer may petition to the Superior Court for an injunction restraining the public officer from carrying out the provisions of the order and the court may, upon such petition, issue a temporary injunction restraining the public officer pending the final disposition of the cause: *Provided, however*, that within sixty days after the posting and service of the order of the public officer, such person shall present such petition to the court. Hearings shall be had by the court on such petitions within twenty days, or as soon thereafter as possible, and shall be given preference over other matters on the court's calendar. The court shall hear and determine the issues raised and shall enter such final order or decree as law and justice may require. In all such proceedings the findings of the public officer as to facts, if supported by evidence, shall be conclusive. Costs shall be in the discretion of the court. The remedies herein provided shall be exclusive remedies and no person affected by an order of the public officer shall be entitled to recover any damages for action taken pursuant to any order of the public officer, or because of noncompliance by such person with any order of the public officer: *Provided, however*, that it shall not be necessary to file bond in any amount before obtaining a temporary injunction under this section.

Petition for temporary injunction against public officer.

Issuance.

Time limitation on presentation of petition.

Hearings on petitions.

Preference.

Final order or decree.

Remedies herein provided declared exclusive.

No bond required.

Additional powers of public officers.

SEC. 7. Additional Powers of Public Officer. An ordinance adopted by the governing body of the municipality may authorize the public officer to exercise such powers as may be necessary or convenient to carry out and effectuate the purpose and provisions of this Act, including the following powers in addition to others herein granted: (a) to investigate the dwelling conditions in the municipality in order to determine which dwellings therein are unfit for human habitations; (b) to administer oaths, affirmations, examine witnesses and receive evidence; (c) to enter upon premises for the purpose of making examinations: *Provided*, that such entries shall be made in such manner as to cause the least possible inconvenience to the persons in possession; (d) to appoint and fix the duties of such officers, agents and employees as he deems necessary to carry out the purposes of the ordinances; and (e) to delegate any of his functions and powers under the ordinance to such officers and agents as he may designate.

Investigation of dwelling conditions.

Administer oaths, etc.

Examination of premises.

Appoint agents, employees, etc.

Delegation of powers, etc.

Appropriation by municipality for administration of ordinances adopted under Act.

SEC. 8. Administration of Ordinance. The governing body of any municipality adopting an ordinance under this Act shall, as soon as possible thereafter, prepare an estimate of the annual expenses or costs to provide the equipment, personnel and supplies necessary for periodic examinations and investigations of the dwelling in such municipality for the purpose of determining the fitness of such dwellings for human habitation, and for the enforcement and administration of its ordinances adopted under this Act; and any such municipality is authorized to make such appropriations from its revenues as it may deem necessary for this purpose and may accept and apply grants or donations to assist it in carrying out the provisions of such ordinances.

Application for grants or donations.

Construction of Act.

SEC. 9. Supplemental Nature of Act. Nothing in this Act shall be construed to abrogate or impair the powers of the courts or of any department of any municipality to enforce any provisions of its charter or its ordinances or regulations, nor to prevent or punish violations thereof; and the powers conferred by this Act shall be in addition and supplemental to the powers conferred by any other law.

Partial invalidity section.

SEC. 10. Severability. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Act, or the application thereof to any person or circumstances, is held invalid, the remainder of the Act and the application of such provisions to persons or circumstances other than those to which it is held invalid, shall not be affected thereby.

SEC. 11. Time of Taking Effect. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 391 **CHAPTER 288**

AN ACT TO AMEND HOUSE BILL NUMBER THREE, PUBLIC LAWS OF NORTH CAROLINA, SPECIAL SESSION OF ONE THOUSAND NINE HUNDRED AND THIRTY-EIGHT, SAME BEING THE REVENUE BOND ACT OF ONE THOUSAND NINE HUNDRED AND THIRTY-EIGHT, SO AS TO INCLUDE IN ITS PROVISIONS CABARRUS COUNTY HOSPITAL.

The General Assembly of North Carolina do enact:

SECTION 1. That House Bill Number three of the Public Laws of North Carolina, special session of one thousand nine hundred and thirty-eight, be and the same is hereby amended by adding a new section thereto immediately following Section thirteen thereof, as follows:

H. B. 3, Ch. 2, Public Laws, Extra Session, 1938, Revenue Bond Act of 1938, amended.

"Sec. 13 (a). The term 'municipality' as used and defined in this Act shall include Cabarrus County Hospital created under and by virtue of Chapter three hundred and seven, Public-Local Laws of North Carolina, session one thousand nine hundred thirty-five, and the term 'governing body' as used and defined in this Act shall include the Executive Committee of Cabarrus County Hospital, and each and every provision of this Act shall be applicable to said Cabarrus County Hospital."

Definition of "municipality" to include Cabarrus County Hospital.

Definition of "governing body" to include Executive Committee of Cabarrus County Hospital.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 575 **CHAPTER 289**

AN ACT TO VALIDATE THE PROCEEDINGS OF THE UNIVERSITY OF NORTH CAROLINA RELATING TO THE ISSUANCE AND PAYMENT OF CERTAIN REVENUE BONDS OF THE UNIVERSITY PAYABLE SOLELY FROM THE REVENUES OF THE PROJECTS FOR WHICH THEY HAVE BEEN OR ARE TO BE ISSUED.

The General Assembly of North Carolina do enact:

SECTION 1. The resolutions adopted by the Executive Committee of the Board of Trustees of the University of North Carolina on July eighth, September sixth, September twenty-third, and November eighteenth, one thousand nine hundred and thirty-eight, purporting to authorize the issuance and provide for the payment of certain Revenue Bonds of the Uni-

Proceedings for issuance and payment of certain Revenue Bonds of University of North Carolina, validated.

versity of North Carolina, pursuant to Chapter four hundred seventy-nine of the Public Laws of one thousand nine hundred and thirty-five of North Carolina, as amended by chapter two of the Public Laws of one thousand nine hundred and thirty-six and Chapter three hundred twenty-three of the Public Laws of one thousand nine hundred and thirty-seven, and all other acts and proceedings done or taken by the University of North Carolina or its officers or official boards, or by the Governor and Council of State, relating to said Revenue Bonds or the projects for which they have been or are to be issued, are hereby validated. The Revenue Bonds herein referred to are as follows: One hundred seventy-eight thousand dollars Dormitory Building Revenue Bonds dated August first, one thousand nine hundred and thirty-eight; Two hundred eighty-seven thousand dollars Dining Hall and Dormitory Building Revenue Bonds dated September first, one thousand nine hundred and thirty-eight; Two hundred sixty-six thousand dollars Dining Hall and Dormitory Building Revenue Bonds, Series B, dated October first, one thousand nine hundred and thirty-eight; One hundred seventy-eight thousand dollars Dormitory Building Revenue Bonds, Series B, dated October first, one thousand nine hundred and thirty-eight; Three hundred eighty-six thousand dollars Building Revenue Bonds dated December first, one thousand nine hundred and thirty-eight, and Two hundred fifty thousand dollars Electric Power and Heating Plant Revenue Bonds dated December first, one thousand nine hundred and thirty-eight. So many of said bonds as have heretofore been issued are hereby validated, and so many of said bonds as have not yet been issued are hereby authorized to be issued in accordance with the proceedings hereby validated.

Enumeration of bonds validated.

Resolutions to constitute part of contract between University and bondholders.

SEC. 2. The provisions of the resolutions under which said bonds have been or are to be issued shall constitute a part of the contract between the University of North Carolina and holders of said bonds, and the University of North Carolina is hereby authorized to do all things necessary for the purpose of carrying out the terms and conditions of said resolutions.

Application of proceeds of Electric Power and Heating Plant Revenue Bonds for construction of new plant, etc.

SEC. 3. The University of North Carolina is hereby expressly authorized to apply the proceeds of the said Two hundred fifty thousand dollars of Electric Power and Heating Plant Revenue Bonds dated December first, one thousand nine hundred and thirty-eight, for the purpose of constructing a new electric power and heating plant and improvements to the present heating system at Chapel Hill, including the necessary equipment and the acquisition of necessary land, as provided in the resolution adopted by said executive committee on November eighteenth, one thousand nine hundred and thirty-eight, authorizing the issuance of said bonds. Any surplus electric power

generated by said electric power and heating plant over and above the amount required by said University may be sold by the University to consumers within the Town of Chapel Hill or within the territory now served with electricity by the University.

Sale of surplus electric power authorized.

SEC. 4. All bonds and coupons which have been or may be issued under the provisions of Chapter four hundred seventy-nine of the Public Laws of one thousand nine hundred and thirty-five shall be exempt from all State, county, and municipal taxation or assessments, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on said bonds shall not be subject to taxation as for income, nor shall said bonds or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company, or other corporation.

Bonds and coupons exempt from State, county and municipal taxation or assessments.

Interest exempt.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 585 CHAPTER 290

AN ACT TO AMEND CHAPTER NINETY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED SEVENTEEN RELATIVE TO A SPECIAL TAX LEVY BY THE BOARDS OF COUNTY COMMISSIONERS FOR THE RESPECTIVE COUNTIES TO BE USED AS A MAINTENANCE FUND FOR TUBERCULAR HOSPITALS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section two of Chapter ninety-nine of the Public Laws of one thousand nine hundred seventeen be and the same is hereby amended by striking out the word "five" which immediately precedes the word "cents" and immediately follows the word "exceed" in line twenty-one of said section, and inserting in lieu thereof the word "ten."

Ch. 99, Public Laws, 1917, amended to increase rate of special tax levies by counties for maintenance of tubercular hospitals.

SEC. 2. That all laws and clauses of laws that are in conflict with the provisions of this Act are hereby repealed. *Provided,* that this amendment shall in no way be construed as affecting the right of the governing body of any county or city in the State to continue to levy any tax heretofore approved by a vote of the people in accordance with the provisions of Chapter ninety-nine Public Laws of one thousand nine hundred seventeen and Acts amendatory thereof.

Conflicting laws repealed.

Construction of Act.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 630 CHAPTER 291

AN ACT TO REGULATE THE SALE AND DISTRIBUTION OF EGGS.

The General Assembly of North Carolina do enact:

Containers of cold storage eggs required to be labeled as such.

SECTION 1. Any person, firm or corporation offering for sale cold storage eggs either wholesale or retail, shall cause crates containing the eggs or any other type of container to be stamped or printed with the words "Cold Storage Eggs."

Printed on restaurant, etc. menu or cards.

SEC. 2. Any hotel, restaurant, inn, or any other establishment serving cold storage eggs to the public shall cause to be written on their menu, or printed on a card, "Cold Storage Eggs."

Labelling of invoices.

SEC. 3. Every person selling eggs which have been in storage thirty days or more, either within or without the State, to a retail store, hotel, restaurant, inn, or any other establishment, shall furnish an invoice with the wording "Cold Storage Eggs." A

Copies of invoices.

copy of such invoice shall be kept on file by the person selling and the one buying at their respective places of business for a

Inspection of invoices.

period of sixty days and shall be available and open for inspection at all reasonable times by the Department of Agriculture.

SEC. 4. In all cases the final determination as to the meeting of the above requirements shall be made by candling. In carrying

Examination of eggs by Commissioner of Agriculture, etc. authorized.

out the provisions of this Act, the Commissioner of Agriculture, his employees, or agents are authorized to enter on any business day, during the usual hours of business, any store, warehouse, market or place where eggs are sold or offered for sale and to make such examination as is necessary to determine the class of eggs sold or offered for sale.

Violations made misdemeanor.

SEC. 5. Any person wilfully or intentionally violating the provisions of this Act shall be guilty of a misdemeanor and shall be fined or imprisoned within the discretion of the court.

Conflicting laws repealed.

SEC. 6. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 7. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 731 **CHAPTER 292**

AN ACT TO MAKE IT A MISDEMEANOR TO OPERATE A MOTOR VEHICLE UPON THE DRIVEWAYS OF PUBLIC OR PRIVATE INSTITUTIONS WHILE UNDER THE INFLUENCE OF INTOXICATING LIQUORS.

The General Assembly of North Carolina do enact:

Operation of motor vehicles upon driveways of public or private institutions while under the influence of intoxicating liquors, etc. made misdemeanor.

SECTION 1. Any person who shall wilfully operate a motor vehicle over any drive, driveway, road, roadway, street or alley upon the grounds and premises of any public or private hospital, college, university, school, or any of the State institutions, maintained and kept up by the State of North Carolina, or any of its subdivisions, while under the influence of intoxicating liquors, opiates, or narcotic drugs, shall be guilty of a misdemeanor and shall be punished as now or hereafter provided by law for the punishment of operators of motor vehicles upon the public highways while under the influence of intoxicating liquors.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 741 **CHAPTER 293**

AN ACT AUTHORIZING AND EMPOWERING ANY COUNTY OR MUNICIPALITY TO APPROPRIATE OUT OF FUNDS RECEIVED AND COLLECTED FROM REVENUE PRODUCING ENTERPRISES BELONGING TO SUCH COUNTY OR MUNICIPALITY A PORTION OF SUCH FUNDS FOR THE PURPOSE OF ERECTING AND MAINTAINING TUBERCULOSIS HOSPITALS AND EMPOWERING COUNTIES AND TOWNS OR MUNCIPALITIES TO CONTRACT WITH EACH OTHER WITH RESPECT TO PRORATING BETWEEN SAID COUNTIES, TOWNS OR MUNCIPALITIES THE EXPENSE OF THE ERECTION OF SAID TUBERCULOSIS HOSPITALS OR OF THE MAINTAINING THEREOF.

The General Assembly of North Carolina do enact:

Appropriations from revenue producing enterprises for construction and equipment of tubercular hospitals.

SECTION 1. (a) That the board of commissioners of any county and/or the board of commissioners or aldermen of any municipality in such county are hereby authorized and empowered to appropriate in their discretion out of funds not de-

rived from taxes, but from revenue producing enterprises owned by said counties and/or towns or municipalities therein, not to exceed fifty thousand dollars ($50,000.00) of said funds so derived, for the purpose of building and equipping tuberculosis hospitals for the treatment of tuberculosis patients in said counties, towns or municipalities.

Appropriation for maintenance of hospitals.

(b) The board of commissioners of any county and/or the board of commissioners or aldermen of any town or municipality are hereby authorized and empowered to appropriate in their discretion, from funds not derived from taxation, such sums as may be deemed necessary by said board or boards for the maintenance of tuberculosis hospitals.

Determination of name of hospital.

SEC. 2. That the name of any hospital established under the provisions of this Act shall be determined by the board of managers to be hereinafter provided for.

Boards of managers for hospitals, created.

SEC. 3. (a) For the governing and management of such hospitals, there shall be created a board of five managers. One of such board shall be elected by the county commissioners from its membership. One member of such board shall be elected by the town commissioners from its membership. The remaining three members of the board of managers shall be elected by joint vote of the boards of county and town commissioners: *Provided, however,* two of such remaining three members shall be licensed physicians elected by said boards of commissioners from a list of at least five nominations made by the county medical society, if there be one: *Provided, further,* if any such hospital be a sole enterprise of a county, or city or town, then the entire membership of the board of managers shall be elected by the board of commissioners of the governmental unit conducting such enterprise.

Election of members.

Monthly reports and anuual budget.

(b) The board of managers shall make a monthly report to the board of commissioners and shall, on or before the first day of June of each year, file a budget with the county accountant.

Election of chairman.

Secretary and treasurer, etc.

Terms of office of chairman.

Bond required of secretary and treasurer.

SEC. 4. (a) The said board of managers shall, after their appointment, meet and elect their chairman, together with a secretary and treasurer, and such other officers, employees and attendants as it may deem necessary for the administration and government of patients. The chairman of the board, as chairman, shall hold office for two years. The said secretary and treasurer, before entering upon his duties, shall give bond to the board of commissioners of the county and/or the board of commissioners of the town an amount fixed by the said board of managers, conditioned for the faithful discharge of his official duties. The said secretary, and treasurer, in the discretion of the said managers, shall be allowed and paid an amount

Compensation of secretary and treasurer.

as the said managers shall deem adequate compensation for his services as secretary and treasurer. The said board of managers, subject to the approval of governing bodies of the governmental unit maintaining such hospital, shall adopt such by-laws, rules and regulations for the governing of said tuberculosis hospital as may be expedient and in conformity with law. The said board of managers shall have control of all monies and expenditures collected by and placed to the credit of said managers of said tuberculosis hospital. All monies shall be paid out by the secretary and treasurer upon authenticated requisition of the board of managers through its president. With the consent of the said board of commissioners of the county and/or the board of commissioners of the town the said board of managers may establish, erect and maintain a tuberculosis hospital upon real estate secured or obtained by gift or purchase. The said board of managers may fix the compensation for all officers, employees and assistants and shall have power to remove such officers, employees or assistants whenever it is deemed advisable by said board of managers. The title to all property, both real and personal, given, conveyed or devised, shall be held by the county and/or town building the said hospital: *Provided, however,* that any donations, bequests or devises made for the use of such hospital, shall be held by the county and/or town in trust according to the terms of such donations, devises or bequests. The board of managers shall have power to make contracts, to formulate, change and alter rules and regulations and government of patients and to do all things reasonable, incidental and necessary in the operation of a tuberculosis hospital.

Adoption of by-laws, etc. for governing of hospitals.

Board of managers to have control of monies and expenditures.

Establishment and maintenance of hospitals authorized.

Compensation of officers, employees, etc.

Title to property vested in local units.

Donations, etc. to be held in trust.

Additional powers of board of managers.

(b) The board of commissioners of the county and/or the board of commissioners of the town or municipality may defer the appointment of said board of managers until such hospital is constructed, in which event the said board of commissioners of the county and/or the board of commissioners of the town or municipality shall itself select the site for such hospital, purchase lands therefor, erect and equip or make contracts for erecting and equipping the buildings for such hospital, and shall thereafter turn such hospital over to said board of managers to be operated and maintained.

Local Boards to perform all acts in connection with hospitals pending appointment of board of managers.

SEC. 5. Membership on the board of managers of members of the board elected from boards of town or county commissioners shall coincide with their term of office as such commissioners; but shall not exceed two years. The remaining three members of the board of managers shall be elected for a term of four years each. In all counties having a health officer, such health officer, in addition to the five elective members, shall be ex-officio member of such board of managers, but shall have no

Terms of office of members elected from local boards.

County health officer to be ex-officio member of board.

Women eligible for membership.

Vacancy appointments.

vote except in case of a tie. Women shall be eligible to the board of managers. The members of the board of managers shall receive no compensation. Any vacancy in said board occurring at any time shall be filled by the board or boards of commissioners making the original appointment.

Contracts between local units as to prorating expenses.

SEC. 6. Counties and towns or municipalities may contract and bargain with each other with respect to prorating between said counties, towns or municipalities the expense of the erection of tuberculosis hospitals or the maintaining thereof.

Conflicting laws repealed.

SEC. 7. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 8. That this Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 823 CHAPTER 294

AN ACT TO AMEND CHAPTER ONE HUNDRED SIXTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-ONE, AND CHAPTER FOUR HUNDRED AND THIRTY-ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-THREE, RELATING TO ICE CREAM PLANTS, CREAMERIES AND CHEESE FACTORIES IN BURKE AND CATAWBA COUNTIES.

The General Assembly of North Carolina do enact:

Ch. 169, Public Laws, 1921, as to ice cream plants and creameries, etc. amended to exempt Burke and Catawba Counties.

SECTION 1. Amend Chapter one hundred sixty-nine of the Public Laws of one thousand nine hundred and twenty-one by adding at the end of Section twelve thereof: "*Provided* that none of the provisions of this Act shall apply to any person, firm or corporation now having an established place of business equipped to manufacture for retail at such place of business ice cream, sherbets, frozen custards, and such like products by what is commonly called and known as counter freezer or other similar process."

Ch. 431, Public Laws, 1933, amended to exempt said counties.

SEC. 2. Amend Chapter four hundred and thirty-one of the Public Laws of one thousand nine hundred and thirty-three, Section five thereof, by inserting a comma after the word "Mecklenburg" and adding the words "Burke and Catawba," and further amend by adding to said section: "*Provided* such person, firm, or corporation now owns equipment for the manufacture of ice cream and other frozen products by what is commonly known and called a counter freezer at such place of business."

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall apply only to Burke and Catawba Counties. Application of Act.

SEC. 5. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 851 CHAPTER 295

AN ACT TO AMEND THE "REVENUE BOND ACT OF ONE THOUSAND NINE HUNDRED THIRTY-EIGHT" BY INCLUDING AS AN UNDERTAKING AS DEFINED BY SAID ACT, TEACHERAGES.

The General Assembly of North Carolina do enact:

SECTION 1. The Revenue Bond Act of one thousand nine hundred thirty-eight, enacted at the Special Session of one thousand nine hundred thirty-eight, is hereby amended by striking out the period at the end of paragraph one, of Section two, and inserting in lieu thereof, a comma and adding thereto, the following: "Teacherages or homes for teachers of public schools." Ch. 2, Public Laws, Extra Session, 1938, Revenue Bond Act, amended to include teacherages, etc in definition of "undertaking."

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 936 CHAPTER 296

AN ACT TO AMEND CHAPTER THREE HUNDRED EIGHTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO THE STATE-WIDE STOCK LAW IN CURRITUCK COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That all those persons owning stock in that part of Currituck County described in Chapter three hundred eighty-nine of the Public Laws of one thousand nine hundred thirty-seven be, and they are hereby given until July first, one thousand Ch. 389, Public Laws, 1937, as to Stock Law Territory in Currituck County, amended to extend time of compliance with requirements of 1937 Act.

nine hundred thirty-nine, to comply with the requirements of said Act.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 959 CHAPTER 297

AN ACT TO AMEND CHAPTER THREE HUNDRED THIRTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE SO AS TO REQUIRE THE LICENSING OF PLUMBING AND HEATING CONTRACTORS IN THE TOWN OF ELKIN IN SURRY COUNTY.

The General Assembly of North Carolina do enact:

Ch. 338, Public Laws, 1935, amended to require licensing of plumbing and heating contractors, Town of Elkin, Surry County.

SECTION 1. Amend Section one of Chapter three hundred thirty-eight of the Public Laws of one thousand nine hundred and thirty-five by adding at the end thereof the following:

"*Provided*, that all requirements and provisions of this Act shall apply to the town of Elkin in Surry County."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with or repugnant to the provisions of this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 1001 CHAPTER 298

AN ACT TO VALIDATE THE LISTINGS OF REAL PROPERTY IN NASH COUNTY.

The General Assembly of North Carolina do enact:

Ch. 259, Public Laws, 1937, amended to validate certain listings of real property, Nash County.

SECTION 1. That Section two of Chapter two hundred and fifty-nine of the Public Laws of one thousand nine hundred and thirty-seven be and the same is hereby amended by striking out all of said Section two of said Act and substituting in lieu thereof the following:

"SEC. 2. That this Act shall be retroactive so as to include all listings of real property from the first day of May, one thousand nine hundred twenty-seven."

SEC. 2. That this amendment shall apply only to Nash County.

SEC. 3. That all laws and clauses of laws in conflict with any of the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 1010 **CHAPTER 299**

AN ACT TO AMEND SECTION NINE HUNDRED TWENTY-NINE OF THE CONSOLIDATED STATUTES, RELATIVE TO BOND OF THE CLERK OF THE SUPERIOR COURT OF CHOWAN COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section nine hundred twenty-nine of the Consolidated Statutes, as amended, be, and the same is hereby amended by inserting in line two thereof, after the word "Carteret," and before the word "Jones," the word "Chowan." C. S. 929, amended as to bond of Clerk Superior Court, Chowan County.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 1036 **CHAPTER 300**

AN ACT TO AMEND CHAPTER SIX HUNDRED FIFTY-ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED NINE, AND SUBSECTION (f) OF SECTION FIVE AND ONE-HALF, CHAPTER EIGHTY-FOUR OF THE PRIVATE LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-THREE, RELATING TO THE MUNICIPAL COURT OF THE CITY OF GREENSBORO.

The General Assembly of North Carolina do enact:

Ch. 651, Public Laws, 1909, amended as to name of municipal court, Greensboro.

SECTION 1. That Section one of Chapter six hundred fifty-one of the Public Laws of one thousand nine hundred nine, be amended by striking out the words "Municipal Court of the City of Greensboro" and inserting in lieu thereof the words "The Greensboro Municipal-County Court."

Ch. 84, Private Laws, 1933, amended to extend terms of judge and prosecuting attorney.

SEC. 2. That Subsection (f) of Section five and one half, of Chapter eighty-four of the Private Laws of one thousand nine hundred thirty-three, be amended by striking out the words "Two years" in line ten thereof, and by adding in its place and stead the words "four years."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act be and the same are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 1052 **CHAPTER 301**

AN ACT TO AMEND HOUSE BILL NUMBER TWO HUNDRED AND FIVE, RATIFIED THE EIGHTH DAY OF MARCH, ONE THOUSAND NINE HUNDRED THIRTY-NINE.

The General Assembly of North Carolina do enact:

Ch. 89, Public Laws, 1939, amended to provide that appropriation for Japanese beetle eradication be made from general fund of State.

SECTION 1. That Section one of House Bill number two hundred and five, ratified the eighth day of March, one thousand nine hundred thirty-nine, be amended by inserting after the word "appropriated" and before the words "the sum of," the words "from the general fund of the State."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. B. 966 CHAPTER 302

AN ACT TO AMEND PARAGRAPH THIRTY-SIX OF SECTION TWO THOUSAND SEVEN HUNDRED EIGHTY-SEVEN OF THE CONSOLIDATED STATUTES SO AS TO GRANT CITIES AND TOWNS IN BUNCOMBE COUNTY ADDITIONAL POWER FOR REGULATION OF THE OPERATORS OF FOR HIRE CARS.

The General Assembly of North Carolina do enact:

C. S. 2787, paragraph 36, amended.

SECTION 1. That paragraph thirty-six of Section two thousand seven hundred and eighty-seven of the Consolidated Statutes be amended by adding to the said paragraph at the end thereof the following: "Or in lieu of furnishing such insurance or surety bond to require that the operator of every jitney bus or taxicab engaged in the business of transporting passengers for hire over the public streets of such city or town, shall place or deposit with the treasurer of such city or town, money, United States Government Bonds or other securities approved by the city council (or other governing body of said city or town by whatsoever name called), in an amount equal to five thousand ($5,000.00) dollars for the first such vehicle, jitney bus or taxicab so operated with an additional amount of money or other securities, as aforesaid, in the sum of two hundred ($200.00) dollars for each and every additional taxicab, jitney bus or vehicle so operated, which said sum shall be conditioned for the payment of any final judgment rendered on account of damage, or any injury to anything, person or persons, caused by such vehicle or taxicab so operated; and to require any such person, firm or corporation who elects to operate under such deposit of cash or securities to maintain at all times with the treasurer of said city or town an amount equal to the minimum total sum required as such deposit; and that every person, firm or corporation who elects to operate under such security deposit plan as may be enacted by any city or town under the authority of this section, shall be deemed by such election to authorize the treasurer of such city or town to pay any such final judgment at any time after fifteen days of the docketing of the same out of the deposit so made with said treasurer.

Municipalities of Buncombe County may require taxi cab companies, in lieu of liability insurance or surety bond, to deposit approved securities.

Authorization of treasurer to pay final judgment within 15 days thereafter.

SEC. 2. That this Act shall only apply to Buncombe County.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

H. B. 1024 **CHAPTER 303**

AN ACT TO APPOINT CERTAIN MEMBERS OF THE BOARDS OF EDUCATION OF THE RESPECTIVE COUNTIES OF NORTH CAROLINA, FIX THEIR TERMS OF OFFICE, AND LIMIT COMPENSATION AT STATE EXPENSE.

The General Assembly of North Carolina do enact:

Biennial appointment of County Boards of Education.

SECTION 1. That the hereinafter named persons are hereby appointed members of the County Boards of Education for the several counties in the State as follows, to wit:

Alamance County.

Alamance—Henry B. Dixon, Henry A. Scott, each for a term of six years; Dr. J. C. Wilkins, Dr. T. E. Powell, each for a term of four years; Dr. A. J. Ellington.

Alexander County.

Alexander—W. S. Patterson for a term of six years.

Alleghany County.

Alleghany—T. R. Burgis for a term of six years; John C. Halsey for a term of four years.

Anson County.

Anson—W. Bryan Moore.

Ashe County.

Ashe—Dr. R. F. Barr, Dr. R. C. Ray, Austin Jones.

Avery County.

Avery—Carl Wiseman, J. M. Derman, E. C. Guy.

Beaufort County.

Beaufort—Charles F. Cowell, Sam B. Etheridge, Dr. W. T. Ralph, Ottis C. Barr, Dan M. Windley, Jr.

Bertie County.

Bertie—J. P. Rascoe for a term of six years; J. B. Parker, Pete F. Cobb, each for a term of four years.

Bladen County.

Bladen—Homer L. Tatum, S. S. Hutchinson, each for a term of four years; J. Neal Clark for a term of six years.

Brunswick County.

Brunswick—R. I. Phelps for a term of six years; Robert Woodside for a term of four years; G. T. Reid.

Buncombe County.

Buncombe—Dr. B. E. Morgan, James S. Howell, Worth McKinney, John M. James, A. O. Mooneyham.

Burke County.

Burke—Earl Searcy and M. S. Arney, each for a term of six years; C. P. Whisenant, L. F. Brinkley and J. E. Coulter, each for a term of four years.

Cabarrus County.

Cabarrus—G. G. Allen, Allen H. Harris, each for a term of six years; A. G. Odell for a term of four years.

Caldwell County.

Caldwell—V. D. Guire, Ed Steele, Melvin Jones, Davis Tuttle, J. E. Lackey.

Camden County.

Camden—W. I. Sawyer, for a term of two years; B. H. Cartwright, for a term of four years; L. S. Walston, for a term of six years.

Carteret— Carteret County.

Caswell—V. M. Stephens for a term of six years; O. A. Powell for a term of four years; J. B. Turner. Caswell County.

Catawba—G. W. Mann, John F. Carpenter, R. C. Boyd, Ralph Sigmon, E. M. Yoder, Jim Howard. Catawba County.

Chatham—W. A. Hinton for a term of six years; Mrs. Lillian Matthews for a term of four years. Chatham County.

Cherokee—Mrs. Giles W. Cover, J. T. Hayes, B. M. Harbin, E. L. Shields, B. B. Palmer, E. B. King, Lawson Lunsford. Cherokee County.

Chowan—W. B. Shephard, Fan Lamb, Haughton Wood, T. L. Ward, S. E. Morris, Z. T. Evans, L. W. Belch. Chowan County.

Clay—Frank Rogers for a term of six years. Clay Count.

Cleveland—W. A. Ridenhour, A. Thurman Hamrick, O. F. Austell, J. L. Hord, C. D. Forney. Cleveland County.

Columbus—R. J. Lamb, A. L. Griffiin, E. W. Fonvielle, R. R. Hinson, R. G. Burns. Columbus County.

Craven—C. A. Seifert, George W. DeBruhl, R. L. Sermon, J. L. Peterson, Fred H. Whitehurst, J. H. Elliott, J. H. West. Craven County.

Cumberland— Cumberland County.

Currituck—Carl P. White for a term of six years; E. W. Addison for a term of four years; I. T. Corbell. Currituck County.

Dare—E. N. Baum, C. E. Payne, each for a term of six years. Dare County.

Davidson—C. R. Dodson for a term of four years; Baxter Carter for a term of four years. Davidson County.

Davie—George Evans, T. C. Pegram, Mrs. Nannie R. Hayes. Davie County.

Duplin—A. P. Cates for a term of six years. Duplin County.

Durham—T. O. Sorrell, Ernest Booth, J. M. Cheek, J. W. Spransey, E. L. Tilley. Durham County.

Edgecombe—Dr. W. W. Green, Leslie Calhoun, each for a term of four years. Edgecombe County.

Forsyth—Frank A. Stith, L. A. Reynolds, Smith Hagaman. Forsyth County.

Franklin—R. F. Green for a term of six years. Franklin County.

Gaston—M. A. Stroup, E. J. Rhyne, John F. Puett, F. A. Whitesides, J. Milton Craig, H. W. Jordan. Gaston County.

Gates—H. F. Parker, Eugene Williams, Mrs. Marion R. Nixon. Gates County.

Graham—J. B. Walters. Graham County.

Granville—Dr. R. G. Rogers, J. A. Timberlake, each for a term of six years. Granville County.

Greene County. *Greene*—E. S. Taylor, W. E. Sugg, R. P. Lane, W. J. Carraway, Luby Edwards.

Guilford County. *Guilford*—J. H. Joyner, E. T. Coble, each for a term of six years.

Halifax County. *Halifax*—R. O. Rives, A. G. Willcox, Mrs. Anna Kitchen Josey, R. L. Applewhite, Mrs. J. T. Thomason.

Harnett County. *Harnett*—Mack M. Jernigan, J. Curtis Senter, D. B. Dean.

Haywood County. *Haywood*—H. V. Cagle.

Henderson County. *Henderson*—J. W. Morgan for a term of six years.

Hertford County. *Hertford*—John C. Taylor, T. N. Charles, G. T. Underwood.

Hoke County. *Hoke*—N. B. Blue, A. W. Wood, Carl Riley, A. D. McPhaul, Dr. A. C. Bethune.

Hyde County. *Hyde*—J. M. Long, A. C. Credle, Roland L. Jones.

Iredell County. *Iredell*—R. C. Bunch, C. K. Knox, J. E. Webb, each for a term of four years.

Jackson County. *Jackson*—John Hooper, Charles Smith, Hut Middleton, John B. Deitz, T. B. Cowan.

Johnston County. *Johnston*—Dr. J. H. Stanley, J. W. Woodard, each for a term of six years.

Jones County. *Jones*—T. H. Foscue for a term of six years; T. F. Lowery for a term of four years.

Lee County. *Lee*—Dr. Wayland Blue for a term of six years.

Lenoir County. *Lenoir*—H. L. Sutton, R. S. Parker, R. G. Hodges, E. C. Taylor, W. B. Bection.

Lincoln County. *Lincoln*—Dr. W. G. Bandy, T. A. Warlick, Austin Beam, Deck Hager, Dorsey Rhyne, each for a term of four years.

Macon County. *Macon*—C. Tom Bryson, James L. Hauser, W. E. Mozeley, Lassie Kelly, Mrs. Fred M. Slagle.

Madison County. *Madison*—Lee Ramsey, D. G. Church, C. W. Baldwin, Kenneth Murry, Corry Wallin, each for a term of four years.

Martin County. *Martin*—H. C. Norman for a term of four years.

McDowell County. *McDowell*—W. L. Morris for a term of six years; J. C. Goforth for a term of four years; J. B. Johnson.

Mecklenburg County. *Mecklenburg*—Banks McClintock, B. D. Funderburk, Richard Eubanks, Frank Sherrill, Jr., W. E. Potts.

Mitchell County. *Mitchell*—The following shall constitute the board of education and none other: Harper Wilson for a term of two years; Maloy Griffith for a term of four years; N. B. Woody for a term of six years.

Montgomery—D. G. Ridenhour for a term of six years. Montgomery County.

Moore—J. W. Graham; J. F. Taylor for a term of two years. Moore County.

Nash—G. L. Jones, John W. Roberson, T. E. Ricks. Nash County.

New Hanover—Dr. J. T. Hoggard, L. T. Landen, Mrs. C. L. Meister, John Marshall, J. C. Roe, Royce S. McClelland. New Hanover County.

Northampton—Dr. John W. Parker, J. A. Shaw, W. Harry Stephenson, R. V. Beale, Dr. C. G. Parker, J. G. Madry, Claude K. Deloatch, L. F. Bradley, W. F. Nelson. Northampton County.

Onslow—I. T. Rawls, W. S. Ketchem, each for a term of six years; Harry B. Moore, F. J. Parker, each for a term of four years; W. L. P. Jarman for a term of two years. Onslow County.

Orange—James Compton, M. W. Durham, E. L. Lockhart. Orange County.

Pamlico—M. D. Powers, Mack E. Ireland, Mrs. E. R. Goodwin, George A. Lane, Claud W. Carawan. Pamlico County.

Pasquotank—A. W. Staunton, Jarvis M. Scott, Mrs. Paul F. Walston, Buxton White, J. Heywood Bright, each for a term of four years. Pasquotank County.

Pender—D. J. Farrior, Jr., Charles D. McGowan, each for a term of six years; C. R. Rogers, for a term of four years; J. D. Thompson, I. T. Wooten. Pender County.

Perquimans—T. S. White, C. V. Ward, each for a term of four years. Perquimans County.

Person—E. E. Bradsher, N. H. Montgomery, W. R. Wilkerson, George W. Walker, R. G. Cole. Person County.

Pitt—R. L. Little for a term of four years. Pitt County.

Polk—E. V. Cloud, A. G. Miller, Frank Jackson, L. L. Clippard, Oliver Andrews. Polk County.

Randolph—L. F. Ross, J. A. Martin, each for a term of six years. Randolph County.

Richmond—D. A. Parsons, J. M. Dockery, Joe H. Howell, each for a term of six years. Richmond County.

Robeson—A. B. McRae, Dr. C. T. Johnson, R. P. Edwards, Mrs. L. I. Grantham, James R. Nance, Isham Pittman, L. E. Hughes, E. T. Lewis. Robeson County.

Rockingham—J. L. Roberts, W. B. Kiker, L. W. Matthews, C. P. Wall, T. J. Garrett. Rockingham County.

Rowan—J. F. McKnight, W. F. Thompson, each for a term of six years. Rowan County.

Rutherford—T. W. Calton for a term of six years. Rutherford County.

Sampson County. *Sampson*—C. Frank Lee, John C. Warren, J. C. Butler, B. E. Jackson, W. E. Peterson.

Scotland County. *Scotland*—T. L. Henley, Edwin Morgan, James A. Buie.

Stanly County. *Stanly*—Q. E. C. Coble, H. W. Culp, each for a term of six years; A. L. Efird, C. B. Miller, each for a term of four years; F. H. Shinn.

Stokes County. *Stokes*—P. O. Frye for a term of six years; Dr. G. E. Stone for a term of four years; J. A. Joyce.

Surry County. *Surry*—G. C. Hauser, G. W. Scott, C. A. McNeil, P. N. Taylor, W. T. White.

Swain County. *Swain*—S. W. Black, Ralph Brendele, R. E. Breedlove, A. S. Queen, Mrs. Sarah E. Martin.

Transylvania. County. *Transylvania*—T. E. Reid, D. H. Winchester, Mrs. J. K. Mills.

Tyrrell County. *Tyrell*—C. Earl Cahoon, C. F. Kemp, E. R. Davenport.

Union County. *Union*—Ward Laney, C. C. Burris, J. Ray Shute, Grady Hawfield, L. E. Huggins.

Vance County. *Vance*—E. B. Taylor for a term of six years; John J. White for a term of four years; J. S. Norwood.

Wake County. *Wake*—A. V. Baucom, Dr. W. C. Riddick, each for a term of six years; Dr. J. P. Hunter for a term of four years.

Warren County. *Warren*—J. E. Rooker, Jr., J. J. Nicholson, Harry W. Walker, Romeo Powell, A. S. Bugg, each for a term of two years expiring simultaneously.

Washington County. *Washington*—Walter H. Paramore for a term of four years.

Watauga County. *Watauga*—C. C. Triplett for a term of two years; W. C. Walker for a term of four years; Chapell Wilson for a term of four years; J. B. Horton, Clyde Perry, each for a term of six years.

Wayne County. *Wayne*—W. R. Allen for a term of six years; J. D. Hines, Mrs. C. W. Ivey for a term of four years.

Wilkes County. *Wilkes*—D. F. Shepard for a term of six years.

Wilson County. *Wilson*—Melvin V. Wilkerson, R. F. Speight, each for a term of six years; A. D. Williams, J. H. Thompson, each for a term of four years; Doane Herring for a term of two years.

Yadkin County. *Yadkin*—Cliff Wallace, Ott Bowles, Paul Davis.

Yancey County. *Yancey*—Horace Edge for a term of six years; J. W. Howell for a term of four years; Wilson S. Edwards.

Qualifications and oath of office. SEC. 2. The members of the several County Boards of Education appointed by this Act shall qualify by taking the oath of office on or before the first Monday in April, one thousand nine

hundred and thirty-nine, and shall, unless otherwise herein provided, hold office for a term of two years from and after the first Monday in April, one thousand nine hundred and thirty-nine, and until their successors are elected and qualified, and, together with the members of the Board of Education of the several counties whose terms will not expire on the first Monday in April, one thousand nine hundred and thirty-nine, shall constitute the Board of Education of the respective counties. Term of office.

SEC. 3. That the per diem and mileage of not exceeding five members of the County Board of Education of the several counties of the State shall be borne out of the State school fund; for any number in excess of five, out of the county school fund. Per diem and mileage allowance.

SEC. 4. That this Act shall be in force and effect from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

H. B. 795 CHAPTER 304

AN ACT TO AMEND CHAPTER ONE HUNDRED FIFTY-ONE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, REDUCING THE TAX ON HARD CRABS.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter one hundred fifty-one, Public Laws of one thousand nine hundred thirty-five, Section one, be, and the same hereby is amended by striking out the words "hard crabs, four cents a bushel," and inserting in lieu thereof the following, "hard crabs, five cents a barrel." Ch. 151, Public Laws, 1935, amended to reduce tax on hard crabs.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

H. B. 896 CHAPTER 305

AN ACT AUTHORIZING THE GRANTING OF TITLE TO THE CONFEDERATE SOLDIERS HOME PROPERTY IN THE CITY OF RALEIGH BY THE STATE OF NORTH CAROLINA TO THE CITY OF RALEIGH FOR A CONFEDERATE MEMORIAL PARK.

Preamble: Gift of certain land by State to Soldiers' Home Association.

WHEREAS, the State of North Carolina, by Chapter sixty of the Private Laws of one thousand eight hundred ninety-one, gave to the Soldiers' Home Association a tract of land lying East of and near the corporate limits of the City of Raleigh, then known as Camp Russell, and formerly known as Pettigrew Hospital, to be held and used by them for the purposes of a Soldiers' Home, and for no other purpose, and

Provision for reversion of property to State.

WHEREAS, said Chapter sixty of the Private Laws of one thousand eight hundred ninety-one, *provided* that when the said land should no longer be used for the benefit of the Confederate Veterans the same should revert and belong to the State, and

Reversion to State.

WHEREAS, said property has ceased to be used in accordance with the provisions of said Act and has reverted and now belongs to the State of North Carolina,

The General Assembly of North Carolina do enact:

Governor and Council of State authorized to sell, transfer or dispose of property.

SECTION 1. The Governor and Council of State are hereby authorized and empowered to sell, transfer, or dispose of the whole or any part of the said tract of land lying East of and near the corporate limits of Raleigh, which land was given to the Soldiers' Home Association by Section four of Chapter sixty of the Private Laws of one thousand eight hundred ninety-one. Such sale, disposition or transfer may be made in whole or in part, and on such terms and conditions as they may approve, or the whole or any portion thereof may be set apart and designated as a park for such purposes as they may specify. The Governor and Council of State are authorized in their discretion to set aside the chapel now standing on said land for use as a memorial to the Confederate Veterans.

Chapel on land may be set aside as memorial to Confederate veterans.

Execution of instruments of conveyance.

SEC. 2. If any conveyance of all or a portion of said property shall be made, it shall be executed by the Governor and Secretary of State, and shall be under the Great Seal of the State.

Proceeds from sale paid into general fund of State.

SEC. 3. The proceeds of the sale of the whole or any part thereof shall be paid into the Treasury of the State, and shall become a part of the general fund.

Conflicting laws repealed.

SEC. 4. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

S. B. 272 CHAPTER 306

AN ACT TO AMEND CHAPTER FIFTY-THREE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-THREE RELATING TO PRIVILEGE LICENSE OF THE BLIND.

The General Assembly of North Carolina do enact:

SECTION 1. Amend Section three, Chapter fifty-three of the Public Laws of one thousand nine hundred and thirty-three by inserting the words "or other" between the words "privilege" and "license" where they occur in lines five, seven, ten and twelve of said section.

Ch. 53, Public Laws, 1933, as to issuance of free privilege licenses to indigent blind, amended to include "other licenses."

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

S. B. 327 CHAPTER 307

AN ACT TO REGULATE THE REGISTRATION AND SALE OF CANNED DOG FOODS.

The General Assembly of North Carolina do enact:

SECTION 1. That every can of dog food sold, offered or exposed for sale within this State shall have printed thereon, in a conspicuous place on the outside thereof, a legible and plainly printed statement in the English language clearly and truly certifying the net weight of the can (*provided*, that all canned dog foods shall be in cans of one pound or multiples thereof); the name, brand or trade mark under which the article is sold; the name and address of the manufacturer; the name of each and all ingredients of which the article is composed; a guarantee that the contents are wholesome and unadulterated, and a statement of the maximum percentage it contains of crude fiber, and the percentage of crude fat, and the percentage of crude protein, and the percentage of moisture, all four constituents to be determined by the methods in use at the time by the Association of Official Agricultural Chemists of the United States.

Labelling of canned dog food required.

Contents of label.

"Canned dog food" defined.

SEC. 2. The term "Canned dog food" shall be held to include any article of food, packed in cans or hermetically sealed containers, and used for food for dogs or cats.

Registration of copies of labels with Commissioner of Agriculture.

SEC. 3. Each and every manufacturer, importer, jobber, agent or seller, before selling, offering or exposing for sale in this State any canned dog food, shall, for each and every canned dog food bearing a distinguishing name or trademark, file for registration with the Commissioner of Agriculture a copy of the statement required in Section one of this Act, and accompany said statement, upon request, by a sealed can containing at least one pound of said dog food.

Power of Commissioner of Agriculture to refuse or revoke registration upon failure to comply with regulations.

SEC. 4. The Commissioner of Agriculture shall have the power to refuse the registration of any canned dog food under a name which would be misleading as to the materials of which it is composed, or when the names of each and all ingredients of which it is composed are not stated, or where it does not comply with the standards and rulings adopted by the Board of Agriculture. Should any canned dog foods be registered and it is afterwards discovered that they are in violation of any of the provisions of this Act, the Commissioner of Agriculture shall have the power to cancel such registration.

Annual registration fee.

SEC. 5. Upon registration of each brand or kind of dog food, the manufacturer, agent or distributor thereof shall pay to the Commissioner of Agriculture an annual registration fee of five dollars ($5.00) payable at the time of registration, and thereafter on or before the last day of June of each year. *Furthermore*, each such manufacturer, agent or distributor shall pay to the Commissioner of Agriculture an inspection tax at the rate of two cents for each carton of forty-eight cans and shall affix to each such carton a stamp to be furnished by the Commissioner of Agriculture stating that all charges specified in this section have been paid. Said stamps shall be redeemed by the department issuing said stamps, upon surrender of same, accompanied by an affidavit that the same have not been used: *Provided*, said stamps shall be returned for redemption within the time fixed by the Board of Agriculture.

Inspection tax stamps.

Stamps affixed to cartons of 48 cans.

Redemption of unused stamps.

Commissioner of Agriculture, deputies, etc. authorized to obtain samples for analysis.

SEC. 6. The Commissioner of Agriculture, together with his deputies, agents and assistants, shall have free access to all places of business, mills, buildings, carriages, cars, vessels and packages of whatsoever kind used in the manufacture, importation or sale of any canned dog food, and shall have power and authority to open any package containing or supposed to contain any canned dog food, and upon tender and full payment of the selling price of said sample, to be taken therefrom, in the manner hereinafter prescribed, samples for analysis. The Department of Agriculture is hereby authorized to publish from time to time in reports or bulletins the results of the analysis of such samples.

Publication of results of analysis authorized.

Adoption of standards, etc.

SEC. 7. The Board of Agriculture is empowered to adopt standards for canned dog foods and such rules and regulations as may be necessary for the enforcement of this Act.

Confiscation and sale by Commissioner of Agriculture in event of violation of Act.

SEC. 8. Any manufacturer, importer, jobber, agent or dealer who shall sell, offer or expose for sale or distribution in this State any canned dog food, as defined in Section two of this Act, without complying with the requirements of the preceding sections of this Act, or who shall sell or offer or expose for sale or distribution any canned dog food which contains substantially a smaller percentage of crude protein or crude fat or a larger percentage of crude fiber or moisture than certified to be contained, or who shall adulterate any canned dog food with foreign substances, of little or no food value, or with injurious substances, shall be guilty of a violation of this Act, and the lot of canned dog food in question shall be subject to seizure, condemnation and sale by the Commissioner of Agriculture, and the proceeds from said sales shall be covered into the State Treasury for the use of the department executing the provisions of this Act. Such seizure and sale shall be made under the direction of the Commissioner of Agriculture by an officer of the Department of Agriculture. The sale shall be made at the courthouse door in the county in which the seizure is made, after advertisement in some newspaper published or circulating in such county. The advertisement shall state the brand or name of the goods, the quantity and why seized and offered for sale. The Commissioner of Agriculture, however, may in his discretion release the canned dog food so withdrawn when the requirements of the provisions of this Act have been complied with, and upon payment of all costs and expenses incurred by the Department of Agriculture in any proceedings connected with such seizure and withdrawal.

Disposition of proceeds of sale.

Procedure for confiscation and sale.

Release of food in event of compliance with Act and payment of costs and expenses of seizure, etc.

Failure to use tax stamps or improper use of stamps, etc. deemed violation of Act.

SEC. 9. Any manufacturer, importer, jobber, agent or dealer who shall sell, offer or expose for sale or distribute in this State any canned dog food without having attached thereto or furnished therewith tax stamps, as required by the provisions of this Act, or who shall use the required tax stamps a second time to avoid the payment of the tax, or any manufacturer, importer, jobber, agent or dealer who shall counterfeit or use a counterfeit of such tax stamps, shall be guilty of a violation of the provisions of this Act.

Failure to comply with requirements of Act, etc. deemed violation of Act.

SEC. 10. Any manufacturer, importer, jobber, agent or dealer who refuses to comply with the requirements of the provisions of this Act, or any manufacturer, importer, jobber, agent or dealer or person who shall impede, obstruct, hinder or otherwise prevent or attempt to prevent any chemist, inspector or other authorized agent in the performance of his duty in connection with the provisions of this Act, shall be guilty of a violation of the provisions of this Act.

Violations made misdemeanor.

SEC. 11. Any manufacturer, importer, jobber, agent or dealer who shall violate any of the provisions of this Act shall be guilty of a misdemeanor and, upon conviction thereof, shall be fined not exceeding one hundred dollars for the first offense, nor more than two hundred dollars for each subsequent offense, and the proceeds from such fines shall be covered into the State Treasury for use of the Department of Agriculture in executing the provisions of this Act.

Notification by Commissioner as to violations.

Hearing granted accused party.

SEC. 12. Whenever the Commissioner of Agriculture becomes cognizant of any violation of the provisions of this Act he shall immediately notify in writing the manufacturer, importer or jobber and dealer, if same be known. Any party so notified shall be given an opportunity to be heard, under such rules and regulations as may be prescribed by the Commissioner and the Board of Agriculture, and if it appears that any of the provisions of this Act have been violated the Commissioner of Agriculture shall certify the facts to the Solicitor of the District in which such sample was obtained, and furnish that officer with a copy of the results of the analysis or other examinations of such article, duly authenticated by the analyst or other officer making such examination, under the oath of such officer. In all prosecutions arising under this Act the certificate of the analyst or other officer making the analysis or examination, when duly sworn to by such officer, shall be prima facie evidence of the fact or facts therein certified.

Facts of violations certified to Solicitor, together with copy of analysis.

Certificate of analyst prima facie evidence of facts therein.

Prosecution of violations.

Exemption.

SEC. 13. That it shall be the duty of every solicitor to whom the Commissioner of Agriculture shall report any violation of this Act to cause proceedings to be commenced and prosecuted without delay for the fines and penalties in such cases prescribed: *Provided*, that the provisions of this Act shall not apply to any canned dog foods now in the hands or in the stock of any dealer or manufacturer.

Conflicting laws repealed.

SEC. 14. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 15. This Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

S. B. 416 **CHAPTER 308**

AN ACT TO AMEND CHAPTER THREE HUNDRED THIRTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE SO AS TO REQUIRE THE LICENSING OF PLUMBING AND HEATING CONTRACTORS IN ANSON COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. Amend Section one of Chapter three hundred thirty-eight of the Public Laws of one thousand nine hundred and thirty-five by adding at the end thereof the following: Ch. 338, Public Laws, 1935, amended to provide for regulation of plumbing and heating contractors, Anson County.

"*Provided*, that all requirements and provisions of this Act shall apply to Anson County."

SEC. 2. That all laws and clauses of laws in conflict with or repugnant to the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

S. B. 495 **CHAPTER 309**

AN ACT TO PLACE THE MUNICIPALITIES IN JACKSON COUNTY UNDER THE PROVISIONS OF THE GENERAL ELECTION LAWS.

The General Assembly of North Carolina do enact:

SECTION 1. That the provisions of House Bill number one hundred and ten, ratified March twenty-fourth, one thousand nine hundred thirty-nine, shall apply to municipal elections in the municipalities located within the County of Jackson. Ch. 159, Public Laws, 1939, made applicable to municipalities of Jackson County.

SEC. 2. That the duties imposed upon chairmen of county boards of elections in said Act shall, in municipal elections in Jackson County, be exercised by the town clerk of such municipalities. Town clerks to perform duties of chairmen of county boards of elections.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

H. B. 45 **CHAPTER 310**

AN ACT TO PROVIDE FOR THE LISTING AND VALUING OF ALL PROPERTY, REAL, PERSONAL AND MIXED, AT ITS TRUE VALUE IN MONEY, AND TO PROVIDE FOR THE TAXATION THEREOF BY COUNTIES, MUNICIPALITIES AND OTHER LOCAL TAXING AUTHORITIES UPON A UNIFORM AD VALOREM BASIS.

The General Assembly of North Carolina do enact:

ARTICLE I

SHORT TITLE AND DEFINITIONS

Machinery Act.

SECTION 1. *Short Title.* This Act may be cited as the Machinery Act of one thousand nine hundred thirty-nine.

Definitions.

SEC. 2. *Definitions.* When used in this Act (unless otherwise specifically indicated by the context):

"Person."

(1) The term "person" means an individual, trust, estate, partnership, firm or company.

"Corporation."

(2) The term "corporation" includes associations, joint-stock companies, insurance companies, and limited partnerships where shares of stock are issued.

"Domestic."

(3) The term "domestic" when applied to corporations or partnerships means created or organized under the laws of the State of North Carolina.

"Foreign."

(4) The term "foreign" when applied to corporations or partnerships means a corporation or partnership not domestic.

"Commissioner."

(5) The term "commissioner" means the Commissioner of Revenue.

"Deputy."

(6) The term "deputy" means an authorized representative of the Commissioner of Revenue or other commissioner or of the State Board of Assessment.

"Taxpayer."

(7) The term "taxpayer" means any person or corporation subject to a tax or duty imposed by the Revenue Act or Machinery Act, or whose property is subject to any ad valorem tax levied by the State or its political subdivisions.

"State license."

(8) The term "State license" means a license issued by the Commissioner of Revenue, usable, good and valid in the county or counties named in the license.

"State-wide license."

(9) The term "State-wide license" means a license issued by the Commissioner of Revenue, usable, good and valid in each and every county in this State.

"Intangible property."

(10) The term "intangible property" means patents, copyrights, secret processes and formulae, good will, trademarks, trade

brands, franchises, stocks, bonds, cash, bank deposits, notes, evidences of debt, bills and accounts receivable, and other like property.

"Tangible property."

(11) The term "tangible property" means all property other than intangible.

"Public utility."

(12) The term "public utility" as used in this Act means and includes each person, firm, company, corporation and association, their lessees, trustees or receivers, elected or appointed by any authority whatsoever, and herein referred to as express company, telephone company, telegraph company, Pullman car company, freight line company, equipment company, electric power company, gas company, railroad company, union depot company, water transportation company, street railway company, and other companies exercising the right of eminent domain, and such term, "public utility," shall include any plant or property owned or operated by any such persons, firms, corporations, companies or associations.

"Express company."

(13) The term "express company" means a public utility company engaged in the business of conveying to, from, or through this State, or part thereof, money, packages, gold, silver, plate, or other articles and commodities by express, not including the ordinary freight lines of transportation of merchandise and property in this State.

"Telephone company."

(14) The term "telephone company" means a public utility company engaged in the business of transmitting to, from, through or in this State, or part thereof, telephone messages or conversations.

"Telegraph company."

(15) The term "telegraph company" means a public utility company engaged in the business of transmitting to, from, through, or in this State, or a part thereof, telegraphic messages.

"Pullman car company."

(16) The term "Pullman car company" means a public utility company engaged in the business of operating cars for the transportation, accommodation, comfort, convenience, or safety of passengers, on or over any railroad line or lines or other common carrier lines, in whole or in part within this State, such line or lines not being owned, leased, and/or operated by such railroad company, whether such cars be termed sleeping, Pullman, palace, parlor, observation, chair, dining or buffet cars, or by any other name.

"Freight line company."

(17) The term "freight line company" means a public utility company engaged in the business of operating cars for the transportation of freight or commodities, whether such freight and/or commodities is owned by such company or any other person or company, over any railroad or other common carrier line or lines in whole or in part within this State, such line or lines not being owned, leased and/or operated by such railroad company, whether

such cars be termed box, flat, coal, ore, tank, stock, gondola, furniture, refrigerator, fruit, meat, oil, or by any other name.

"Equipment company."

(18) The term "equipment company" means a public utility company engaged in the business of furnishing and/or leasing cars, of whatsoever kind or description, to be used in the operation of any railroad or other common carrier line or lines, in whole or in part within this State, such line or lines not being owned, leased, or operated by such railroad company.

"Electric power company."

(19) The term "electric power company" means a public utility company engaging in the business of supplying electricity for light, heat and/or power purposes to consumers within this State.

"Gas company."

(20) The term "gas company" means a public utility company engaged in the business of supplying gas for light, heat, and/or power purposes to consumers within this State.

"Waterworks company."

(21) The term "waterworks company" means a public utility company engaged in the business of supplying water through pipes or tubing and/or similar manner to consumers within this State.

"Union depot company."

(22) The term "union depot company" means a public utility company engaged in the business of operating a union depot or station for railroads or other common carrier purposes.

"Water transportation company."

(23) The term "water transportation company" means a public utility company engaged in the transportation of passengers and/or property by boat or other water craft, over any waterway, whether natural or artificial, from one point within this State to another point within this State, or between points within this State and points without this State.

"Street railway company."

(24) The term "street railway company" means a public utility company engaged in the business of operating a street, suburban or interurban railway, either wholly or partially within this State, whether cars are propelled by steam, cable, electricity, or other motive power.

"Railroad company."

(25) The term "railroad company" means a public utility company engaged in the business of operating a railroad, either wholly or partially within this State, or rights of way acquired or leased and held exclusively by such company or otherwise.

"Gross receipts" or "gross earnings."

(26) The terms "gross receipts" or "gross earnings" mean and include the entire receipts for business done by any person, firm, or corporation, domestic or foreign, from the operation of business or incidental thereto, or in connection therewith. The gross receipts or gross earnings for business done by a corporation engaged in the operation of a public utility shall mean and include the entire receipts for business done by such corporation, whether from the operation of the public utility itself or from any other source whatsoever.

"Bank," "banker," "broker," "stock jobber."

(27) The terms "bank", "banker", "broker", "stock jobber" mean and include any person, firm, or corporation who or which has money employed in the business of dealing in coin, notes, bills of exchange, or in any business of dealing, or in buying or selling any kind of bills of exchange, checks, drafts, bank notes, acceptances, promissary notes, bonds, warrants or other written obligations, or stocks of any kind or description whatsoever, or receiving money on deposit.

"Collector" or "collectors."

(28) The terms "collector" and "collectors" mean and include county, township, city or town tax collectors, and Sheriffs.

"List takers" and "assessors."

(29) The terms "list takers" and "assessors" mean and include list takers, assessors and assistants.

"Real property," "real estate," "land," "tract," or "lot."

(30) The terms "real property", "real estate", "land", "tract", or "lot" mean and include not only the land itself, but also all buildings, structures, improvements and permanent fixtures thereon, and all rights and privileges belonging or in any wise appertaining thereto, except where the same may be otherwise denominated by this or the Revenue Act.

"Shares of stock."

(31) The terms "shares of stock" or "shares of capital stock" mean and include the shares into which the capital or capital stock of an incorporated company or association may be divided.

"Tax" or "taxes."

(32) The terms "tax" or "taxes" mean and include any taxes, special assessments, costs, penalties, and/or interest imposed upon property or other subjects of taxation.

ARTICLE II

THE STATE BOARD OF ASSESSMENT

State Board of Assessment.

SEC. 200. *Personnel of the board.*

Creation.

Membership.

Chairman.

Executive secretary and assistants.

Payment of expenses.

The Governor, or some person designated by him, the Commissioner of Revenue, the Public Utilities Commissioner, the Attorney General, and the Director of the Local Government Commission shall be and are hereby created the State Board of Assessment, with all the powers and duties prescribed in the Act. The Commissioner of Revenue shall be the chairman of the said board, and shall, in addition to presiding at the meetings of the board, exercise the functions, duties, and powers of the board when not in session. The board may employ an executive secretary, whose entire time may be given to the work of the said board, and is authorized to employ such clerical assistance as may be needed for the performance of its duties; all expenses of said board shall be paid out of funds appropriated out of the general fund to the credit of the Department of Revenue of the State.

Oath of office.

SEC. 201. *Oath of office.*

The members of the board shall take and subscribe to the constitutional oath of office and file the same with the Secretary of State.

Duties of Board.

SEC. 202. *Duties of the board.*

Valuation and taxation.

The State Board of Assessment shall exercise general and specific supervision of the systems of valuation and taxation throughout the State, including counties and municipalities, and in addition

As State Board of Equalization and Review.

it shall be and constitute a State Board of Equalization and Review of valuation and taxation in this State. It shall be the duty of said board:

Advising with county officials in tax matters.

(1) To confer with and advise Boards of County Commissioners, tax supervisors, assessing officers, list takers, and all others engaged in the valuation and assessment of property, in the preparation and keeping of suitable records, and in the levying and collection of taxes and revenues, as to their duties under this Act or any other Act passed with respect to valuation of property, assessing, levying or collection of revenue for counties, municipalities and other subdivisions of the State, to insure that proper proceedings shall be brought to enforce the statutes pertaining to taxation and for the collection of penalties and liabilities imposed by law upon public officers, officers of corporations, and individuals failing, refusing or neglecting to comply with this Act; and to call upon the Attorney General or any prosecuting attorney in the State to assist in the execution of the powers herein conferred.

Preparation of instruction books for counties.

(2) To prepare a pamphlet or booklet for the instruction of the Boards of County Commissioners, tax supervisors, assessing officers, list takers, and all others engaged in the valuation of property, preparing and keeping records, and in the levying and collecting of taxes and revenue, and have the same ready for distribution at least thirty (30) days prior to the date fixed for listing taxes. The said pamphlet or booklet shall, in as plain terms as possible, explain the proper meaning of the revenue laws and the Machinery Act of this State; shall call particular attention to any points in the law or in the administration of the laws which may be or which have been overlooked or neglected; shall advise as to the practical working of the revenue laws and the Machinery Act, and shall explain and interpret any points that seem to be intricate and upon which county or State officers may differ.

Contents.

Hearing appeals from county boards.

(3) To hear and to adjudicate appeals from Boards of County Commissioners and County Boards of Equalization and Review as to property liable for taxation that has not been assessed or of property that has been fraudently or improperly assessed through error or otherwise, to investigate the same, and if error, inequality, or fraud is found to exist, to take such proceedings and to make such orders as to correct the same. In case it shall be

made to appear to the State Board of Assessment that any tax list or assessment roll in any county in this State is grossly irregular, or any property is unlawfully or unequally assessed as between individuals, between sections of a county, or between counties, the said board shall correct such irregularities, inequalities and lack of uniformity, and shall equalize and make uniform the valuation thereof upon complaint by the Board of County Commissioners under rules and regulations prescribed by it, not inconsistent with this Act: *Provided*, that no appeals shall be considered or fixed values changed unless notice of same is filed within sixty (60) days after the final values are fixed and determined by the Board of County Commissioners or the Board of Equalization and Review, as hereinafter provided: *Provided, further*, that each taxpayer or ownership interest shall file separate and distinct appeals; no joint appeals shall be considered except by and with consent of the State Board of Assessment.

Correction of irregularities.

Equalizing valuations.

Notice of appeal.

Separate appeals required.

(4) To require from the Register of Deeds, auditor, county accountant, tax clerk, clerk of the court or other officer of each county, and the mayor, clerk or other officer of each municipality, on forms prepared and prescribed by the said board, such annual and other reports as shall enable said board to ascertain the assessed valuation of all property listed for taxation in this State under this or any other Act, the rate and amount of taxes assessed and collected, the amount returned delinquent, tax sales, certificates of purchase at such tax sales held by the State, county or municipality, and such other information as the board may require, to the end that it may have full, complete, and accurate statistical information as to the practical operation of the tax and revenue laws of the State.

Annual reports from county officers.

Contents.

(5) To require theSecretary of State, and it shall be his duty, to furnish monthly to the said board a list of all domestic corporations incorporated, charter amended or dissolved, all foreign corporations domesticated, charter amended, dissolved or domestication withdrawn during the preceding month, in such detail as may be prescribed by said board.

Monthly reports from Secretary of State on corporate charters.

(6) To make diligent investigation and inquiry concerning the revenue laws and sytems of taxation of other States, so far as the same are made known by published reports and statistics and can be ascertained by correspondence with officers thereof.

Investigation of other revenue and tax systems.

(7) To report to the General Assembly at each regular session, or at such other times as it may direct, the total amount of revenue or taxes collected in this State for State, county, and municipal purposes, classified as to State, county, township, and municipality, with the sources thereof; to report to the General Assembly the proceedings of the board and such other information and recommendations concerning the public revenues as required by the General Assembly or that may be of public interest; to cause

Reports to General Assembly.

Printing and distribution of reports.

two thousand copies of said report to be printed on or before the first day of January in the year of the regular session of the General Assembly, and place at the disposal of the State Librarian one hundred (100) copies of said report for distribution and exchange, if and when funds are available for said purpose; and to forward a copy of said report to each member of the General Assembly as soon as printed.

Other duties.

(8) To discharge such other duties as may be prescribed by law, and take such action, do such things, and prescribe such rules and regulations as may be needful and proper to enforce the provisions of this and the Revenue Act.

Recommendations to General Assembly.

(9) To prepare for the legislative committee of succeeding General Assemblies such suggestions of revision of the revenue laws, including the Machinery Act, as it may find by experience, investigation, and study to be expedient and wise.

Annual report to Governor.

Recommendations.

(10) To report to the Governor, on or before the first day of January of each year, the proceedings of said board during the preceding year, with such recommendations as it desires to submit with respect to any matters touching taxation and revenue.

Records of official proceedings.

(11) To keep full, correct and accurate records of its official proceedings.

Administration of Article VIII, Schedule H, Revenue Act.

(12) To properly administer the duties prescribed by Article VIII, Schedule H, of the Revenue Act, with respect to division and certification of taxes collected thereunder; the State Board of Assessment shall hear and pass upon any matters relative thereto.

Classification and assessment of property.

(13) To perform the duties imposed upon it with respect to the classification and assessment of property.

Powers of Board.

SEC. 203. *Powers of the board.*

To the end that the board may properly discharge the duties placed upon it by law, it is hereby accorded the following powers:

To prescribe forms, books and records.

Require reports from counties.

Other rules and regulations.

(1) It may, in its discretion, prescribe the forms, books, and records that shall be used in the valuation of property and in the levying and collection of taxes, and how the same shall be kept; to require the county tax supervisors, clerks or Boards of County Commissioners, or auditor of each county to file with it, when called for, complete abstracts of all real and personal property in the county, itemized by townships and as equalized by the County Board of Equalization and Review; and to make such other rules and regulations, not included in this or the Revenue Act, as said board may deem needful effectually to promote the purposes for which the board is constituted and the systems of taxation provided for in this and the Revenue Act.

Board to have access to departmental books and records.

(2) The board, its members or any duly authorized deputy shall have access to all books, papers, documents, statements,

records and accounts on file or of records in any department of State, county or municipality, and is authorized and empowered to subpoena witnesses upon a subpoena signed by the chairman of the board, directed to such witnesses, and to be served by any officer authorized to serve subpoenas; to compel the attendance of witnesses by attachment to be issued by any Superior Court upon proper showing that such witness or witnesses have been duly subpoenaed and have refused to obey such subpoena or subpoenas; and to examine witnesses under oath to be administered by any member or authorized agent of the board.

Judicial powers.

(3) The board, its members or any duly authorized deputy are authorized and empowered to examine all books, papers, records or accounts of persons, firms and corporations, domestic and foreign, owning property liable to assessment for taxes, general or specific, levied by this State or its subdivisions. Said board, its members or any duly authorized deputy are also given power and authority to examine the books, papers, records or accounts of any person, firm or corporation where there is ground for believing that information contained in such books, papers, records and accounts is pertinent to the decision of any matter pending before said board, regardless of whether such person, firm or corporation is a party to the proceeding before the board. Books, papers, records or accounts examined under authority of this subdivision of this section shall be examined only after service of a proper subpoena, signed by the chairman of the board and served by an officer authorized to serve subpoenas upon the person having the custody of such books, papers, records or accounts.

Access to private books and records.

Access to private books and records pertinent to decision of matters pending before Board.

Service of subpoena upon person having custody.

Any person, persons, member of a firm, or any officer, director or stockholder of a corporation, bank or trust company who shall refuse permission to inspect any books, papers, documents, statements, accounts or records demanded by the State Board of Assessment, the members thereof, or any duly authorized deputy provided for in this Act or the Revenue Act, or who shall willfully fail, refuse, or neglect to appear before said board in response to its subpoena or to testify as provided for in this Act and the Revenue Act, shall, in addition to all other penalties imposed in this or the Revenue Act, be guilty of a misdemeanor and fined and/or imprisoned in the discretion of the court.

Refusal to allow inspection of records or respond to subpoena made misdemeanor.

(4) The board is authorized and empowered to direct any member or members of the board to hear complaints, to make examination and investigations, and to report his or their findings of fact and conclusions of law to the board. Upon demand of any party to an appeal pending before the board, the board shall send one of its members or a special representative designated by it to make an actual examination of the property and other similar property in the same county and report to the board. The cost of making said examination shall be advanced by the county: *Provided*, that in cases in which the examination is demanded by a taxpayer, if the board's decision does not substantially affirm

Hearing and determination of complaints.

Examination of property by Board or its representatives.

Cost of examination.

the contentions of the taxpayer, the board in its decision shall direct that the county advancing the cost may add such cost to the taxes levied against the property.

Certified copies of records of Board competent as evidence.

(5) The board shall have power to certify copies of its records and proceedings, attested with its official seal, and copies of records or proceedings so certified shall be received in evidence in all courts in this State with like effect as certified copies of other public records.

Information available to local tax authorities.

(6) The board may, upon its own motion or upon request of any tax supervisor or County Board of Commissioners, transmit or make available to a supervisor or duly authorized representative of such board of commissioners any information contained in any report to said State board, or in any report to the Department of Revenue or other State department to which said State board may have access, or any other information which said State board may have in its possession when, in the opinion of said board, such information will assist said supervisor or representative of the commissioners in securing an adequate listing of property for taxation or in assessing taxable property.

Right of Board to divulge information.

Except as herein specified, and except to the Governor or his authorized agent or solicitor or authorized agent of the solicitor of a district in which such information would affect the listing or valuation of property for taxes, the State board shall not divulge or make public the reports made to it or to other State departments: *Provided*, this shall not interfere with the publication of assessments and decisions made by said board or with publication of statistics by said board; nor shall it prevent presentation of such information in any administrative or judicial proceedings involving assessments or decisions of said board.

Information transmitted to local tax authorities to be used for tax purposes only.

Information transmitted or made available to local tax authorities under this section shall not be divulged or published by such authorities, and shall be used only for the purposes of securing adequate tax lists, assessing taxable property and presentation in administrative or judicial proceedings involving such lists or assessments.

Exercise of powers authorized.

(7) The board is authorized to exercise all powers reasonably necessary to perform the duties imposed upon it by this Act or other Acts of this State.

SEC. 204. *Meetings of the board.*

Place of sessions of Board.

The regular sessions of the State Board of Assessment shall be held in the City of Raleigh at the office of the chairman, and other sessions may be called at any place in the State to be decided by the board.

ARTICLE III

QUADRENNIAL AND ANNUAL ASSESSMENT

SEC. 300. *Listing and assessing in quadrennial years.*

All property to be listed and assessed in quadrennial years.

In one thousand nine hundred forty-one, and quadrennially thereafter, all property, real and personal, subject to taxation, shall be listed and assessed for ad valorem tax purposes: *Provided,* that in one thousand nine hundred forty-one, and quadrennially thereafter, the County Boards of Commissioners may determine whether real property in the respective counties and townships shall be revalued by horizontal increase or reduction or by actual appraisal thereof, or both. Where the horizontal method is used, the provisions of the next succeeding section shall also apply.

Method determined by County Commissioners.

SEC. 301. *Listing and assessing in years other than quadrennial years.*

Listing and assessing in years other than quadrennial years.

In the year one thousand nine hundred thirty-nine and in other than quadrennial years all property, real and personal, subject to taxation, shall be listed for ad valorem tax purposes. Property not subject to reassessment in such years shall be listed at the value at which it was assessed at the last quadrennial assessment. In all such years the following property shall be assessed or reassessed:

Property to be assessed or reassessed:

(1) All personal property (which for purposes of taxation shall include all personal property whatsoever, tangible or intangible, except personal property expressly exempted by law).

Personal property.

(2) All machinery, service station equipment, merchandise and trade fixtures, barber shop equipment, meat market equipment, restaurant and cafe fixtures, drug store equipment and similar property not permanently affixed to the real estate.

Machinery, equipment, etc.

(3) All real property (which for purposes of taxation shall include all lands within the State and all buildings and fixtures thereon and appurtenances thereto) which:

Real property.

(a) Was not assessed at the last quadrennial assessment.

Not assessed.

(b) Has increased in value to the extent of more than one hundred dollars ($100.00) by virtue of improvements or appurtenances added since the last assessment of such property.

Increased in value.

(c) Has decreased in value to the extent of more than one hundred dollars ($100.00) by virtue of improvements or appurtenances damaged, destroyed or removed since the last assessment of such property.

Decreased in value.

(d) Has increased or decreased in value since the last asssessment of such property by virtue of some extraordinary circumstances, such circumstances being those of unusual occurrence in trade or business, and the facts in connection with which shall be

Changed values caused by unusual circumstances.

found by the Board of Equalization in each case and entered upon the proceedings of said board.

Subdivided for purposes of sale.

(e) Has been subdivided into lots located on streets already laid out and open, and sold or offered for sale as lots, since the date of the last assessment of such property. This shall apply to all cases of subdivision into lots, regardless of whether the land is situated within or without an incorporated municipality: *Provided,* that where lands have been subdivided into lots, and more than five acres of any such subdivision remain unsold by the owner thereof, the unsold portion may be listed as land acreage, in the discretion of the tax supervisor.

Listing of unsold portion.

Error in amount.

(f) Was last assessed at an improper figure as the result of a clerical error.

Unjustly assessed.

(g) Was last assessed at a figure which manifestly is unjust by comparison with the assessment placed upon similar property in the county: *Provided,* that the power to reassess under this subdivision shall be exercised only by the Board of Equalization and Review, subject to appeal to the State Board of Assessment.

Exercise of power of reassessment.

Date of assessment.

SEC. 302. *Date as of which assessment is to be made.*

Value and ownership determined as of April 1.

All property, real and personal, shall be listed or listed and assessed, as the case may be, in accordance with ownership and value as of the first day of April, one thousand nine hundred thirty-nine, and thereafter all property shall be listed or listed and assessed in accordance with ownership and value as of the first day of January each year.

Property subject to taxation.

SEC. 303. *Property subject to taxation.*

All property, real and personal, within the jurisdiction of the State, not especially exempted, shall be subject to taxation.

SEC. 304. *Reference to Revenue Act.*

Provisions subordinated to Art. VIII, Schedule H, Revenue Act.

None of the provisions contained in any of the sections of this article shall be construed to conflict with Article VIII, Schedule H, of the Revenue Act, but rather shall they be subordinate thereto.

ARTICLE IV

PERSONNEL FOR COUNTY TAX LISTING AND ASSESSING

Appointment and qualification of tax supervisors.

SEC. 400. *Appointment and qualifications of tax supervisors.*

At or before the regular meeting next preceding the date as of which property is to be listed and assessed, the Board of County Commissioners of each county shall appoint as tax supervisor some person who shall be a free-holder in the county, who shall for one year immediately preceding the appointment, have been

a resident of the county, and whose experience in the valuation of real and personal property is satisfactory to the board.

In counties in which there is an auditor, tax clerk, county accountant, all-time chairman of the Board of County Commissioners, or other similar officer, either may be designated as supervisor by the Board of County Commissioners. County officers may be named.

SEC. 401. *Term of office and compensation of supervisors.*

The tax supervisor shall serve for one year or for such shorter period of time as the board may designate. In the case he is appointed for one year, he shall serve until his successor is appointed and has qualified, subject to removal for cause by the board of commissioners at any time. Any vacancy shall be filled by appointment by the board of commissioners. Term of office of supervisors. Removal. Vacancy appointments.

The compensation of the supervisor shall be fixed by the Board of commissioners, and he shall be allowed such expenses as the commissioners may approve. Compensation of supervisors.

SEC. 402. *Oath of office of supervisor.* Oath of office.

Immediately after his appointment, and before entering upon the duties of his office, the supervisor shall file with the clerk of the board of commissioners the following oath, subscribed and sworn to before the chairman of the board of commissioners or some other officer qualified to administer oaths:

"I, ..., County Tax Supervisor for ..... County, North Carolina, for the year ....., do solemnly swear (or affirm) that I will discharge the duties of my office as supervisor according to the laws in force governing such office; so help me, God. Form.

....."

(Signature)

SEC. 403. *Powers and duties of tax supervisor.* Powers and duties of tax supervisor.

(1) The supervisor shall have general charge of the listing and assessing of all property in the county in accordance with the provisions of law. Supervision of listing and assessing of property.

(2) He shall appoint the list takers and assessors, subject to the approval of the commissioners, as hereinafter provided. Appointment of list takers and assessors.

(3) He shall, on the second Monday preceding the date as of which property is to be assessed or at some time during the week which includes said Monday, convene the list takers and assessors for general consideration of methods of securing a complete list of all property in the county, and of assessing, in accordance with law, all property which is to be assessed during the approaching listing period. Preliminary meeting with list takers and assessors.

Visits and conferences with list takers.

(4) He shall visit each list taker at least once during the period of listing, and shall confer with each list taker during said period as often as he or the list taker deems necessary, to the end that all property shall be listed and assessed according to law, and that assessments shall be equalized as between the various townships.

Judicial powers.

(5) He shall have power to subpoena any person for examination under oath and to subpoena any books, papers, records or accounts whenever he has reasonable grounds for the belief that such person has knowledge of such books, papers, records and accounts containing information which is pertinent to the discovery or the valuation of any property subject to taxation in the county, or which is necessary for compliance with the requirements as to what the tax list shall contain, hereinafter set forth. The subpoena shall be signed by the Chairman of the County Board of Equalization and served by an officer qualified to serve subpoenas.

Require detailed statements, inventories and other information of business enterprises.

(6) He may require that any or all persons, firms and corporations, domestic and foreign, engaged in operating any business enterprise in the county shall submit, in connection with his or its regular tax list, a detailed inventory, statement of assets and liabilities, or other similar information pertinent to the discovery of valuation of property taxable in the county. Inventories, statements of assets and liabilities or other information not expressly required by this Act to be shown on the tax list itself, secured by the supervisor under the terms of this subdivision, shall not be open to public inspection.

Records not open to public inspection.

Penalty for unjustified disclosure of information.

Any supervisor or other official disclosing information so obtained, except as such disclosure may be necessary in listing or assessing property or in administrative or judicial proceedings relating to such listing or assessing, shall be guilty of a misdemeanor and punishable by fine not exceeding fifty dollars ($50.00).

Power to change valuations by list takers.

(7) He shall have power, for good cause, and prior to the first meeting of the Board of Equalization and Review, to change the valuation placed upon any property by the list taker, *provided* such property is subject to assessment for the current year, and

Notice.

provided that notice of such change is given to the taxpayer prior to the meeting of said board.

Other duties.

(8) He shall perform such other duties as may be imposed upon him by law, and shall have and exercise all powers reasonably necessary in the performance of his duties, not inconsistent with the Constitution or the laws of this State.

Appointment of list takers and assessors.

SEC. 404. *Appointment, qualifications, and number of list takers and assessors.*

Subject to the approval of the county commissioners, the supervisor, on or before the second Monday preceding the date as of

which property is to be assessed, shall appoint some competent person to act as list taker and assessor in each township. With the approval of the commissioners he may appoint more than one such person for any township in which is situated an incorporated town or part of an incorporated town. In quadrennial years three such persons shall be appointed in each township, and more than three may be appointed in townships in which is located an incorporated town or part of an incorporated town; and in such years, at the time of their appointment, such appointees shall have been resident freeholders of the county for at least twelve months: *Provided*, that in any county adopting the horizontal method of revaluations in one thousand nine hundred forty-one, and quadrennially thereafter, the commissioners may appoint less than three list takers and assessors per township: *Provided, further*, that in quadrennial years the Board of County Commissioners may appoint one list taker and assessor in each township if in addition thereto at least two county-wide list takers and assessors are appointed; or said board may appoint not more than three qualified assessors to assess all real estate in the county. In every year the persons appointed shall be persons of character and integrity, and shall have such experience in the valuation of types of property commonly owned in the county as shall satisfy the supervisor and the commissioners.

Approval of county commissioners.

Number appointed in quadrennial years.

In counties adopting the horizontal method.

In counties having two or more county-wide list takers.

Qualifications of list takers and assessors.

SEC. 405. *Term of office and compensation of list takers and assessors.*

Term of office and compensation of list takers and assessors.

The list takers and assessors shall serve for such period as may be fixed by the commission. They shall receive for their services such compensation as the commissioners may fix. No list taker shall receive compensation until the supervisor has checked over the lists accepted by him, as hereinafter required, and certified that his work has been satisfactory. Each list taker shall make out his account in detail, specifying each day's services, which account shall be audited by the county accountant and approved by the commissioners.

Accounts required.

SEC. 406. *Oath of list takers and assessors.*

Oath of list takers and assessors.

Before entering upon his duties each list taker and assessor shall take the following oath, which shall be filed with the clerk to the board of commissioners after having been subscribed and sworn to before some officer qualified to administer oaths:

Form.

"I, ..., List Taker and Assessor for ..... Township, ... County, North Carolina, do hereby solemnly swear (or affirm) that I will discharge the duties of my office according to the laws in force that govern said office; so help me, God.

....."

(Signature)

Powers and duties of list takers and assessors.

SEC. 407. *Powers and duties of list takers and assessors.*

Posting notice.

(1) At least ten days before the date as of which property is to be assessed, each list taker shall post, in five or more public places in his township, a notice containing at least the following:

Contents.

(a) The date as of which property is to be assessed; (b) the date on which listing will begin; (c) the date on which the listing will end; (d) the times and places between the last two dates mentioned at which lists will be accepted; (e) a notice that all persons who, on the date as of which property is to be assessed, own property subject to taxation must list such property within the period set forth in the notice, and that failure to do so will subject such persons to the penalties prescribed by law.

Where more than one list taker has been appointed.

In townships in which more than one list taker has been appointed the posting of these notices shall be the duty of one of them, to be designated by the supervisor.

Posting of new notice when listing period extended.

Contents.

In case the period of listing in any township shall be extended by the commissioners, as hereinafter permitted, it shall be the duty of the list taker who first posted the notices to post new notices in the same places, giving notice of the extension and notice of the times and places at which lists will be accepted during the extended period.

Attend meeting of supervisor and list takers.

(2) Each list taker shall attend the meeting referred to in Subdivision three of Section four hundred three of this Act.

Listing property for taxation.

Assessment.

(3) The list takers and assessors, under the supervision of the supervisor, shall secure lists of all real and personal property and polls subject to taxation in their townships, and shall assess all such property as is subject to assessment under the provisions of this Act. To this end they shall secure from each taxpayer or person whose duty it is to list property or poll in their respective townships a list containing the information hereinafter specified,

Investigation as to value.

and shall have the authority to visit any such person or his property, to investigate the value of any such property, and to examine under oath any such person present before them for the purpose of listing property.

May be required to visit each person in township.

The supervisor may, in his discretion, require any list taker and assessor to visit each person in his township whose property or poll is subject to taxation.

Judicial powers.

(4) Each list taker and assessor shall have power to subpoena any person for examination under oath whenever he has reasonable grounds for belief that such person has knowledge which is pertinent to the discovery or valuation of property subject to taxation in his township or which is necessary for compliance with the requirements, hereinafter set forth, as to what the tax list shall contain.

Duties in connection with making up tax records, etc.

(5) The list takers and assessors shall perform such duties in connection with the making up of the tax records and in connection with the discovery of unlisted property as hereinafter specified.

(6) The list takers and assessors shall perform such other duties as may be by law imposed upon them; and they shall have and exercise all powers necessary to the proper discharge of their duties not inconsistent with the Constitution of the Statutes of this State. Other duties.

SEC. 408. *Employment of experts.* Employment of persons having expert knowledge of value of specific kinds or classes of property.

The Board of County Commissioners in each county, at the request of the county supervisor of taxation, may in their discretion employ one or more persons having expert knowledge of the value of specific kinds or classes of property within the county, such as mines, factories, mills and other similar property, to aid and assist the county supervisor of taxation and the list takers and assessors in the respective townships, or to advise with, aid and assist the Board of Equalization and Review in arriving at the true value in money of the property in the county. Such expert, or experts, so employed by the Board of County Commissioners shall receive for their services such compensation as the Board of County Commissioners shall designate. Compensation.

SEC. 409. *Clerical assistants.* Clerical assistants.

The county commissioners may, in their discretion, upon recommendation of the supervisor, employ such clerical assistants to the supervisor as they deem proper, and at such compensation and for such terms as they deem proper. Such assistants shall perform such duties as the commissioners or the supervisor may assign to them. Employment. Compensation. Duties.

SEC. 410. *Tax commission.* Tax Commission.

In all counties having a tax commission, said commission shall do and perform all the duties required by this Act to be performed by county commissioners except levying taxes, and all expenses incurred by said tax commission or its appointees in accordance with this Act shall be paid by the county commissioners out of the general county funds. Duties. Payment of expenses.

ARTICLE V

CLASSIFICATION, VALUATION AND TAXATION OF PROPERTY

SEC. 500. *Taxes to be on uniform ad valorem basis as to class.* Uniform ad valorem taxation.

All property, real and personal, shall as far as practicable, be valued at its true value in money, and taxes levied by all counties, municipalities and other local taxing authorities shall be levied uniformly on valuations so determined. The intent and purpose of this Act is to have all property and subjects of taxation assessed at their true and actual value in money, in such manner as such property and subjects are usually sold, but not by forced sale Taxes to be levied uniformly on valuations determined.

"Market value," "true value" and "cash value" defined.

thereof, and the words "market value," "true value," or "cash value," whenever used in the tax laws of this State, shall be held to mean for what the property and subjects can be transmuted into cash when sold in such manner as such property and subjects are usually sold: *Provided,* nothing in this section shall be construed as conflicting with or modifying the provisions of Article VIII, Schedule H of the Revenue Act or the provisions of this Act classifying other property.

Provisions subordinated to Art. VIII, Schedule H, Revenue Act.

Encouragement of conservation of natural resources, etc.

No increase in tax valuations of real estate of owners adopting certain progressive policies.

It is hereby declared to be the policy of this State so to use its system of real estate taxation as to encourage the conservation of natural resources and the beautification of homes and roadsides, and all tax assessors are hereby instructed to make no increase in the tax valuation of real estate as a result of the owner's enterprise in adopting any one or more of the following progressive policies:

Policies enumerated.

1. Planting and care of lawns, shade trees, shrubs and flowers for non-commercial purposes.

2. Repainting buildings.

3. Terracing or other methods of soil conservation, to the extent that they preserve values already existing.

4. Protection of forests against fire.

5. Planting of forest trees on vacant land for reforestation purposes (for ten years after such planting).

SEC. 501. *Land and buildings.*

Method of determining value of land.

In determining the value of land the assessors shall consider as to each tract, parcel or lot separately listed at least its advantages as to location, quality of soil, quantity and quality of timber, water power, water privileges, mineral or quarry or other valuable deposits, fertility, adaptability for agricultural, commercial or industrial uses, the past income therefrom, its probable future income, the present assessed valuation, and any other factors which may affect its value.

Method of determining value of building.

In determining the value of a building the assessors shall consider at least its location, type of construction, age replacement cost, adaptability for residence, commercial or industrial uses, the past income therefrom, the probable future income, the present assessed value, and any other factors which may affect its value. Buildings partially completed shall be assessed in accordance with the degree of completion on the day as of which property is assessed.

ARTICLE VI

EXEMPTIONS AND DEDUCTIONS

Exemptions and deductions.

SEC. 600. *Real property exempt.* Real property exemptions.

The following real property, and no other, shall be exempted from taxation:

(1) Real property, if directly or indirectly owned by the United States or this State, however held, and real property owned by the State for the benefit of any general or special fund of the State, and real property lawfully owned and held by counties, cities, townships, or school district, used wholly and exclusively for public or school purposes. Federal or State or local units.

(2) Real property, tombs, vaults and mausoleums set apart for burial purposes, except such as are owned and held for purposes of sale or rental. Burial places.

(3) Buildings, with the land upon which they are situated, lawfully owned and held by churches or religious bodies, wholly and exclusively used for religious worship or for the residence of the minister of any such church or religious body, together with the addition adjacent land reasonably necessary for the convenient use of any such building. Church property.

(4) Buildings, with the land actually occupied, wholly devoted to educational purposes, belonging to, actually and exclusively occupied and used for public libraries, colleges, academies, industrial schools, seminaries, or any other institutions of learning, together with such additional adjacent land owned by such libraries and educational institutions as may be reasonably necessary for the convenient use of such buldings, and also buildings thereon used as residences by the officers or instructors of such educational institutions. Library and school property.

(5) Real property belonging to, actually and exclusively occupied by Young Men's Christian Associations and other similar religious associations, orphanages, or other similar homes, hospitals and nunneries not conducted for profit, but entirely and completely as charitable. Y. M. C. A., orphanage or hospital property.

(6) Buildings, with the land actually occupied, belonging to the American Legion or Post of the American Legion or any benevolent, patriotic, historical, or charitable association used exclusively for lodge purposes by said societies or associations, together with such additional adjacent land as may be necessary for the convenient use of the buildings thereon. Property of American Legion, lodges, etc.

(7) Property beneficially belonging to or held for the benefit of churches, religious societies, charitable, educational, literary, benevolent, patriotic or historical institutions or orders, where the rent, interest or income from such investment shall be used exclusively for religious, charitable, educational or benevolent Property beneficially belonging to churches and other benevolent institutions.

purposes, or to pay the principal or interest of the indebtedness of said institutions or orders.

Exemptions applicable to real property of foreign religious and benevolent institutions.

(8) The exemptions granted in Subsections three, four, five, six, and seven of this section shall apply to real property of foreign religious, charitable, educational literary, benevolent, patriotic or historical corporations, institutions or orders when such property is exclusively used for or the income therefrom is exclusively used for religious, charitable, educational or benevolent purposes within this State.

Property of Indians.

(9) The real property of Indians who are not citizens, except lands held by them by purchase.

Property appropriated for public parks and drives.

(10) Real property falling within the provisions of Section one thousand one hundred twenty-three of the Consolidated Statutes, appropriated exlusively for public parks and drives.

Personal property exemptions.

SEC. 601. *Personal property exempt.*

The following personal property, and no other, shall be exempt from taxation:

Government and municipal property.

(1) Personal property, directly or indirectly owned by this State and by the United States, and that lawfully owned and held by the counties, cities, towns, and school districts of the State, used wholly and exclusively for county, city, town, or public school purposes.

Furniture and furnishings of religious bodies.

Certain private libraries.

(2) The furniture and furnishings of buildings lawfully owned and held by churches or religious bodies, wholly and exclusively used for religious worship or for the residence of the minister of any church or religious body, and private libraries of such ministers and the teachers of the public schools of this State.

Educational or library equipment.

(3) The furniture, furnishings, books, and instruments contained in buildings wholly devoted to educational purposes, belonging to and exclusively used by churches, public libraries, colleges, academies, industrial schools, seminaries, or other institutions.

Endowments.

(4) The endowment and invested funds of churches and other religious associations, charitable, educational, literary, benevolent, patriotic or historical institutions, associations or orders, when the interest or income from said funds shall be used wholly and exlusively for religious, charitable, educational or benevolent purposes, or to pay the principal or interest of the indebtedness of said associations.

Property of charitable and benevolent associations.

(5) Personal property belonging to Young Men's Christian Associations and other similar religious associations, orphan and other similar homes, reformatories, hospitals, and nunneries which are not conducted for profit and entirely and completely used for charitable and benevolent purposes.

(6) The furniture, furnishings, and other personal property belonging to any American Legion, or Post of American Legion, patriotic, historical, or any benevolent or charitable association, when used wholly for lodge purposes and meeting rooms by said association or when such personal property is used for charitable or benevolent purposes. Property of American Legion and lodges.

(7) The exemptions granted in Subsections two, three, four, five and six of this section shall apply to personal property of foreign religious, charitable, educational, literary, benevolent, patriotic or historical corporations, institutions or orders when such property is exclusively used or the income therefrom is exclusively used for religious, charitable, educational or benevolent purposes within this State. Property of foreign religious and benevolent institutions.

(8) Wearing apparel, household and kitchen furniture, the mechanical and agricultural instruments of farmers and mechanics, libraries and scientific instruments, provisions and live stock, not exceeding the total value of three hundred dollars ($300.00), and all growing crops: *Provided*, that said three hundred dollars ($300.00) exemption shall be limited to: (1) each household, consisting of the head of the household and all the dependents, one three hundred dollars ($300.00) exemption to be distributed among the members of the household as they see fit; and (2) each single person, not residing with persons on whom he is dependent, as to eligible property actually owned by him. Household goods, etc., up to $300. Growing crops. Limitation on $300 exemption.

(9) The intangible personal property referred to in Article VIII, Schedule H, of the Revenue Act, which said intangible personal property shall be taxed or exempt in accordance with the provisions of said Article VIII, Schedule H, of the Revenue Act: *Provided*, that the provisions of this subsection shall not be construed to modify the provisions of Article XV or Article XVI of this Act. Intangible personal property referred to in Art. VIII, Schedule H, Revenue Act.

(10) Tangible personal property held at any seaport destined for and awaiting foreign shipment. Property awaiting foreign shipment.

SEC. 602. *Deductions and credits.* Deductions and credits.

(a) Private hospitals shall not be exempt from property taxes and other taxes lawfully imposed, but in consideration of the large amount of charity work done by them, the boards of commissioners of the several counties are authorized and directed to accept, as valid claims against the county, the bills of such hospitals for attention and services voluntarily rendered to afflicted or injured residents of the county who are indigent and likely to become public charges, when such bills are duly itemized and sworn to and are approved by the county physician or health officer as necessary or proper; and the same shall be allowed as payments on and credits against all taxes which may be or become due by such hospital on properties strictly used for hospital pur- Private hospitals not exempt. Charity work credited on county taxes. Bills itemized and verified. Same credits on municipal taxes.

poses, but to that extent only will the county be liable for such hospital bills: *Provided,* that the board of aldermen or other governing boards of cities and towns shall allow similar bills against the municipal taxes for attention and services voluntarily rendered by such hospitals to paupers or other indigent persons resident in any such city or town: *Provided further,* that the governing boards of cities and towns shall require a sworn statement to the effect that such bills have not and will not be presented to any Board of County Commissioners as a debt against that county, or as a credit on taxes due that county. The provisions of this subsection shall not apply to the counties of Rockingham and Buncombe, nor to the cities and towns in said counties.

Provision against duplication.

Counties excepted.

Deduction of bona fide indebtedness.

(b) All bona fide indebtedness owing by a taxpayer as principal debtor may be deducted from the total value of cotton, tobacco or other farm products and all fertilizer and fertilizer materials: *Provided,* that such indebtedness may be deducted only by the original producer of said farm products or by a taxpayer owning such fertilizer or fertilizer materials as are held by such taxpayer for his own use in agriculture during the current year: *Provided, further,* that from the total value of cotton stored in this State there may be deducted by the owner thereof all bona fide indebtedness incurred directly for the purchase of said cotton and for payment of which the cotton so purchased is pledged as collateral.

SEC. 603. *Reference to the Revenue Act.*

Provisions subordinate to Art. VIII, Schedule H, Revenue Act.

None of the provisions contained in any of the sections of this article shall be construed to conflict with Article VIII, Schedule H, of the Revenue Act, but rather shall they be subordinate thereto.

ARTICLE VII

REAL PROPERTY—WHERE AND IN WHOSE NAME LISTED

SEC. 700. *Place for listing real property.*

Place for listing real property.

All real property subject to taxation, and not hereinafter required to be assessed originally by the State Board of Assessment, shall be listed in the township or place where such property is situated.

SEC. 701. *In whose name real property to be listed; information regarding ownership; permanent listing.*

Property listed in name of owner.

(1) Except as hereinafter specified, real property shall be listed in the name of its owner; and it shall be the duty of the owner to list the same. To this end the Board of County Commissioners in any county may require the Register of Deeds, when any transfer of title is recorded, other than a mortgage or deed of trust, to certify the same to the supervisor (or if there be no

Certification by Registers of Deeds as to records of transfers may be required.

supervisor acting at the time, to the person in charge of the tax records), and the record of the transfer shall be entered upon the tax records. The certification from the register to the supervisor or other person shall include the name of the person conveying the property, the name of the person to whom it is conveyed, the township in which the property is situated, a description of the property sufficient to identify it, and a statement as to whether the parcel is conveyed in whole or in part. For his services in this respect the register shall be allowed, if on fees, the sum of ten cents (10c) per transfer certified, to be paid by the county, and if on salary, such allowance as may be made by the board of commissioners.

Contents of certification.

Fees.

It shall also be within the power of any board of commissioners, in its discretion, to require that each person recording such conveyance of real property shall, before presenting it to the Register of Deeds, present it to the person in charge of the tax records, in order that the conveyance may be noted on the tax records and in order that adequate information concerning the location of the property may be obtained from the person recording the conveyance. If such presentation is required by the commissioners of any county, the Register of Deeds of that county shall not accept for recording any conveyance which has not first been submitted to the person in charge of the tax records and such person has obtained information for the tax records which he regards as satisfactory. The commissioners may allow the person in charge of the tax records such compensation for this service as they deem appropriate, but they shall not require the person presenting the deed to pay any fee therefor.

Presentation of instruments of conveyance for notation on tax records may be required.

Not acceptable for registration until submitted to tax department.

Compensation to tax officials.

It shall also be within the power of the commissioners to authorize the installation of a system for the permanent listing of real estate, under which all real estate may be carried forward by the supervisor, the list takers or some person or persons designated by the supervisor, in the name of the proper person as defined by this Act, without requiring that such real estate be listed each year by such person. No such system shall be installed without the approval of the State Board of Assessment; and when such a system is installed, with the approval of the board, the board may authorize the commissioners to make such modifications of the listing requirements of this Act as the board may deem necessary: *Provided*, that nothing herein shall require the board's approval for any such system installed prior to the ratification of this Act.

Installation of permanent listing system authorized.

Approval by State Board of Assessment.

Any county may, in the discretion of the commissioners, require that all real estate be listed only in the name of the owner of record at the close of the day as of which property is listed and assessed.

Listing in name of owners of record.

(2) For purposes of tax listing and assessing the owner of the equity of redemption in any property which is subject to a mort-

Equity of redemption.

gage or deed of trust shall be considered the owner of such real estate.

Property of decedents.

(3) Real property of which a decedent died possessed, not under the control of an executor or administrator, may be assessed to the heirs or devisees of the deceased without naming them until they have given notice of their respective names to the supervisor and of the division of the estate. It shall be the duty of any executor or administrator having control of real property to list it in his fiduciary capacity until he shall have been divested of control of such property. The right of an administrator, administering upon the estate of an intestate decedent, to petition for the sale of real estate to make assets shall not be considered as control of such real estate for purposes of this subdivision.

Property in control of executors or administrators.

Fiduciaries as owners.

(4) A trustee, guardian or other fiduciary having legal title to real property shall be regarded as the owner of such property for purposes of tax listing, except as elsewhere in this section provided, and he shall list such property in his fiduciary capacity.

Undivided interests in real property.

(5) Where undivided interests in real property are owned by tenants in common, not being copartners, the supervisor, upon request and in his discretion, may allow the property to be listed by the respective owners in accordance with their respective undivided interests.

Partnerships.

(6) Real property belonging to a partnership or unincorporated association shall be listed in the name of such partnership or association.

Corporations.

(7) Real property owned by a corporation shall be listed in the name of the corporation.

Divided ownerships.

(8) When land is owned by one party and improvements thereon or mineral, timber, quarry, water power, or similar rights therein are owned by another party, the parties may list their interests separately or may, in accordance with contractual relations between them, have the entire property listed in the name of the owner of the land. Where in such a case the land and improvements or rights are listed by the separate owners, the taxes levied on the improvements, or rights, shall be a lien on the land, and the land shall be subject to foreclosure for non-payment of such taxes in the same manner as if such taxes were levied directly against said land: *Provided*, nothing herein contained shall prevent said taxes from being also a lien on said improvements, or rights.

Taxes levied on improvements constitute a lien on land.

Lien on improvements.

Life estates.

(9) A life tenant or tenant for the life of another shall be considered the owner of real property for purposes of tax listing, but he shall indicate when listing such property that he is a life tenant. The taxes levied on property listed in the name of a life tenant shall be a lien on the entire fee: *Provided*, that this shall not prevent the life tenant from being liable for the taxes under

Lien of tax.

Liability of life tenants.

Section seven thousand nine hundred eighty-two of the Consolidated Statutes.

(10) If the owner or person in whose name the real property should properly be listed, as set forth in the foregoing subdivisions of this section, is unknown, the property may be listed in the name of the occupant, and either or both shall be liable for the taxes; and if there be no occupant, then it may be listed as property the owner of which is unknown: *Provided*, that wherever the property is so listed against the occupant or an unknown owner, or through error the property has been listed against some person other than the owner as defined in this section, and the name of the true owner is subsequently ascertained, the tax records may be changed so as to list said property against the owner, and the change shall have the same force and effect as if the property has been listed against the owner in the first instance.

Where owners are unknown.

Error in listing.

ARTICLE VIII

PERSONAL PROPERTY—WHERE AND IN WHOSE NAME LISTED

Personal property.

SEC. 800. *Place for listing tangible personal property.*

(1) In general, all tangible personal property and polls shall be listed at the residence of the owner, except as otherwise provided in this section. For purposes of this section the residence of a person who has two or more places in which he occasionally dwells shall be the place at which he resided for the longest period of time during the year preceding the date as of which property is assessed. The residence of a corporation, partnership or unincorporated association, domestic or foreign, shall be the place of its principal office in this State, and if a corporation, partnership or unincorporated association has no principal office in this State, its tangible personal property may be listed at any place at which said property is situated *provided* said property has a taxable situs within the State.

Tangible personal property listed at residence of owner.

Residence of person living in more than one place.

Residence of corporations, partnerships, etc.

(2) Farm products produced in this State, owned by the producers, shall be listed where produced.

Farm products.

(3) Tangible personal property taxable in this State, owned by an individual nonresident of this State, shall be listed where situated.

Property owned by non-residents.

(4) Subject to the provisions of Subsection two of this section, tangible personal property shall be listed at the place where such property is situated, rather than at the residence of the owner, if the owner or person having control thereof hires or occupies a store, mill, dockyard, piling ground, place for the sale of property, shop, office, mine, farm, place for storage, manufactory or warehouse therein for use in connection with such property. Property stored in public warehouses and merchandise in the possession of a consignee or broker shall be regarded as falling within the provisions of this subdivision.

Property to be listed at place where situated.

Tangible property of decedents.

(5) The tangible personal property of a decedent whose estate is in the process of administration or has not been distributed shall be listed at the place at which it would be listed if the decedent were still alive and still residing at the place at which he resided at the time of his death.

Fiduciaries having legal title.

(6) Tangible personal property held by a trustee, guardian or other fiduciary having legal title thereto shall be listed at the place where such property would be listed if the beneficiary were the owner; and if there are several beneficiaries in a case in which such property would be listed at the residence of the owner, the value of the property shall be listed at the various residences of the beneficiaries in accordance with their respective interests. This subdivision shall effect only cases in which the beneficiaries are residents of this State, but it shall apply whether the fiduciary is a resident or nonresident of this State. Property delivered by executors or administrators to themselves or others as testamentary trustees shall be controlled by this subsection rather than by Subsection five of this section.

Where more than one beneficiary.

Non-resident beneficiaries.

(7) In any case where the beneficiary is a nonresident of this State, tangible personal property having a taxable situs in this State, held by a trustee, guardian or other fiduciary having legal title, shall be listed at the place it would be listed if the trustee or other fiduciary were the beneficial owner of such property.

Intangible personal property.

SEC. 801. *Intangible personal property.*

Subject to provisions of Art. VIII, Schedule H, Revenue Act.

The listing, assessing, and taxation of intangible personal properties and the administration relative thereto shall be subject to the provisions of Article VIII, Schedule H, of the Revenue Act.

In whose name personal property should be listed.

SEC. 802. *In whose name personal property should be listed.*

Personal property in general.

(1) In general, personal property shall be listed in the name of the owner thereof on the day as of which property is assessed; and it shall be the duty of the owner to list the same. The owner of the equity of redemption in personal property subject to a chattel mortgage shall be considered the owner of the property; and the vendee of personal property under a conditional bill of sale, or under any other sale contract by virtue of which title to the property is retained in the vendor as security for the payment of the purchase price, shall be considered the owner of the property, *provided* he has possession of such property or the right to use the same.

Property of corporations, partnerships, etc.

(2) Personal property of a corporation, partnership, firm or unincorporated association shall be listed in the name of such corporation, partnership, firm, or unincorporated association.

Property of decedents.

(3) Personal property of which a decedent died possessed, not under the control of an executor or administrator, may be assessed to the next of kin or legatees of the decedent without naming

them until they have given notice of their respective names to the supervisor and have likewise given notice of the distribution of the estate; and for this purpose such next of kin or legatees may be designated as "heirs." It shall be the duty of an executor or administrator having control of such property to list it in his fiduciary capacity until he shall have been divested of such control.

Under control of fiduciary.

(4) A trustee, guardian, or other fiduciary having legal title to personal property shall be regarded as the owner thereof for purposes of this section.

Fiduciaries having legal title.

(5) In cases in which two or more persons are joint owners of personal property, each shall list the value of his interest.

Joint owners.

(6) If any dispute shall arise as to the true owner of personal property, the person in possession thereof shall be regarded as the owner unless the list taker or supervisor shall be convinced that some other person is the true owner.

Persons in possession deemed owners.

SEC. 803. *Reference to the Revenue Act.*

None of the provisions contained in any of the sections of this article shall be construed to conflict with Article VIII, Schedule H, of the Revenue Act, but rather shall they be subordinate thereto.

Provisions subordinate to Art. VIII, Schedule H, Revenue Act.

ARTICLE IX

WHAT THE TAX LIST SHALL CONTAIN AND MISCELLANEOUS MATTERS AFFECTING LISTING

SEC. 900. *What the tax list shall contain.*

Each taxpayer or person whose duty it is to list property for taxation shall file with the proper list taker a tax list setting forth, as of the day on which property is assessed, the following information:

Contents of tax list.

(1) The name and residence address of the taxpayer.

Name and address.

(2) The age of the taxpayer, if he is a male taxpayer, listing in the township of his residence.

Age.

(3) Each parcel of real property owned or controlled in the township, not subdivided into lots, together with the number of acres cleared for cultivation, waste land, woods and timber, mineral, quarry lands, and lands susceptible of development for water power, and the total acreage. Each separate parcel shall be described by name, if it has one, and by specifying at least two adjoining landowners, or by such other description as shall be sufficient to locate and identify said land by parol testimony. If all or part of such land shall lie within the boundaries of any incorporated town or any district in which a special tax is levied, such fact shall be specified.

Amount and description of realty.

Separate parcels.

Each parcel of manufacturing property owned or controlled.

Identity.

(4) Each parcel of manufacturing property owned or controlled in the township, not subdivided into lots, together with the number of acres in said parcel or the dimensions thereof, the name of such parcel, if any, and the names of at least two adjoining land owners, or such other description as shall be sufficient to locate and identify said property by parol testimony. If all or part of such land shall lie within the boundaries of any incorporated town or any district in which a special tax is levied, such fact shall be specified.

Each lot owned or controlled.

Identity.

(5) Each lot owned or controlled in the township together with the dimensions of said lot, the location of said lot, its street number, if any, its number or location on any map filed in the office of the Register of Deeds or such other description as shall be sufficient to locate and identify it by parol testimony. If any such lot shall lie within the boundaries of an incorporated town or any district in which a special tax is levied, such fact shall be specified.

Improvements.

Listing interests or rights owned by other persons.

(6) In conjunction with the listing of any real property listed under Subdivisions (3), (4), or (5) of this section, a short description of any improvements thereon, belonging to the taxpayer listing such real property, shall be given. And if some person other than the taxpayer listing such real property shall own mineral, quarry, timber, water power or other separate rights with respect thereto, or shall own any improvements thereon, such fact shall be specified, together with the name of the person owning such rights or improvements, and a short description of such rights or improvements; though the owner of the land may or may not list such separate rights or improvements for taxes in accordance with the provisions of this Act.

Minerals, etc.

Improvements.

(7) All mineral, quarry, timber, water power or other separate rights owned by the taxpayer with respect to the lands of another, and all improvements owned by such taxpayer located upon the lands of another. Such rights or improvements shall be listed separately with respect to each parcel or lot of land which is listed separately by the owner thereof, and such parcel or lot shall be identified in the same manner as it is identified on the tax list of the person listing the same: *Provided*, that such rights or improvements shall not be taxed against the owner thereof if, under the provisions of this Act, they are listed for taxes by the owner of the land.

List of encumbrances.

(8) Every person listing real property shall list, in connection with each parcel or lot, every encumbrance thereon, together with the amount due on such encumbrance and the name and address of the person to whom such amount is due.

Machinery and fixtures.

(9) The amount and value of all machinery and fixtures.

Improvements in excess of $100.

(10) A special description of any improvements, having a value in excess of one hundred dollars ($100.00), which have been

begun, erected, damaged or destroyed since the time of the last assessment of such property.

Livestock.

(11) A list of horses, mules, jacks and jennets, cattle, hogs, sheep, goats and other live stock, poultry and dogs, with the number and value of each class shown separately.

Dogs.

(12) The number of open female dogs and the number of other dogs.

Farm equipment.

(13) The amount and value of farm machinery, farm utensils, and carriages, carts, wagons, buggies, or other vehicles and harness.

Household and kitchen furniture, etc.

(14) The amount and value of household and kitchen furniture, libraries, scientific instruments, tools of mechanics, wearing apparel, and provisions of all kinds.

Merchandise, etc.

(15) The amount and value of merchandise, manufactured goods, or goods in the process of manufacture. This subdivision is intended to include all tangible personal property whatever held for the purpose of sale or exchange or held for use in the business of the taxpayer.

Office furniture and equipment.

(16) The amount and value of all office furniture, fixtures and equipment.

Vehicles.

(17) The number and value of all motor vehicles, tractors, trailers, bicycles, flying machines, pleasure boats of any and all kinds, and their appliances.

Fishing equipment.

(18) The number and value of all seines, nets, fishing tackle, boats, barges, schooners, vessels, and all other floating property.

Billboards, etc.

(19) The number and value of billboards and signboards and the value of other property used in outdoor advertising.

Radios, etc.

(20) The number and value of radios, talking machines and musical instruments.

Silverware.

(21) The value of plated or silverware, clocks, watches, firearms and jewelry.

Farm products in storage.

(22) The amount and value of all cotton, tobacco or other farm products owned by the original producer, or held by the original producer in any public warehouse and represented by warehouse receipts, or held by the original producer for any cooperative marketing or grower's association, together with a statement of the amount of any advance against said products.

Other farm products.

(23) The amount and value of all other cotton, tobacco or other farm products.

Fertilizers.

(24) The amount and value of all fertilizer and fertilizer materials.

Money on hand.

(25) The value and a description of all other property whatever, not especially exempted by law.

Itemized list of personal property when required.

(26) An itemized list of any type of personal property when such itemization is required by the list taker or supervisor.

License taxes.

(27) A statement setting forth a list of license taxes for which the person, firm or corporation listing may be liable to the State under the provisions of Schedule "B" of the Revenue Act; and also a statement of liability for tax on intangible personal property owned.

Oath of taxpayer.

(28) The oath of the taxpayer hereinafter set forth.

SEC. 901. *Duty to list: Penalty for failure.*

Duty to list.

It shall be the duty of every person, firm or corporation, in whose name any property or poll is to be listed under the terms of this Act, to list said property or poll with the proper list taker or the supervisor, within the time allowed by law, on a list setting forth the information required by this Act. In addition to all other penalties prescribed by law, any person, firm or corporation whose duty it shall be to list any poll or property, real or personal, who willfully fails, refuses or neglects to list the same within the time allowed by law, or who removes or conceals property for the purpose of evading taxation, shall be guilty of a misdemeanor; and any person, firm or corporation aiding or abetting the removal or concealment of property for the purpose of evading taxation shall be guilty of a misdemeanor. The failure to list shall be prima facie evidence that such failure was willful, and the Board of County Commissioners shall present the names of all such persons, firms and corporations to the grand jury.

Penalty for failure to list.

Violations reported to grand jury.

Oath of taxpayer.

SEC. 902. *Oath of the taxpayer.*

Before accepting any completed tax list, it shall be the duty of the list taker to read and actually to administer the following oath (or so much thereof as may be pertinent) which shall be subscribed by the person filing the list:

Form.

"I, ..., do solemnly swear (or affirm) (that I am an officer or agent of the taxpayer named on the attached list, that as such I am duly authorized to submit said list, that I am familiar with the extent and value of all said taxpayer's property subject to taxation in this township) that the above and foregoing list is a full, true and complete list of all and each kind of property which it is the duty of the above named taxpayer to list as owner or fiduciary, as said list indicates, in ..... Township, ... County, North Carolina; and that I have not in any way connived at the violation or evasion of requirements of law in relation to the assessment of property; so help me, God.

....."

(Signature)

So much of the foregoing oath as appears in the second parentheses shall be used only in cases in which the list is submitted by an officer or agent. Any list taker who accepts a list without administering said oath shall be guilty of a misdemeanor. Penalty for failure to administer oath.

SEC. 903. *Listing by agents.*

Corporations, partnerships, firms and unincorporated associations, females, nonresidents of the township in which the property is to be listed, and persons physically unable to attend and file a list may have their lists submitted and sworn to by an officer or agent; but the list shall be filed in the name of the principal. Non-residents and persons physically disabled may submit list through agent.

SEC. 904. *Listing by mail.* Listing by mail.

All tax lists submitted by mail must be accompanied by the oath of the taxpayer, as prescribed in this Act, duly sworn to before a notary public or other officer authorized to administer oaths, and must be mailed to the supervisor. The supervisor may accept or reject any such list in his discretion.

SEC. 905. *Length of the listing period; preliminary work.* Thirty day listing period.

Tax listing shall begin on the day as of which property is assessed (or on the first business day thereafter if said day is a Sunday or a holiday) and shall continue for thirty days. The Board of County Commissioners of any county may extend the time for listing for not more than an additional thirty days: *Provided,* that in years of quadrennial assessment the Board of County Commissioners may extend the time for listing for not more than an additional sixty days. Extension.

Nothing in this section shall be construed to prevent any preparatory work, prior to the beginning of listing, which may be necessary or expedient in connection with an efficient listing or assessing of property; nor shall it prevent the assessment of real property by the list takers prior to the actual time at which it is listed by its owner or carried forward on the tax records: *Provided,* that no final assessment shall be made by a list taker prior to the day as of which property is required by law to be assessed. Preliminary work.

SEC. 906. *Records of tax exempt property.* Records of tax exempt property.

The person making up the tax records shall enter, in regular order, the name of the owner, a clear description of all real and personal property exempt from taxation, together with statement of its value, for what purpose used, and the rent, if any, obtained therefrom. Each list taker shall secure the necessary information with respect to such property in his township. The list of such exempt property, when completed, shall be delivered by the county supervisor of taxation to the Register of Deeds of the county on or before the first day of October, and the Register of Name of owner. Value, use and description of property. List delivered by county supervisor to Register of Deeds.

Duplicates transmitted to State Board.

Deeds, on or before the first day of November, shall make duplicates thereof and transmit such duplicates to the State Board of Assessment and shall file the original list of exempt property in his office.

Forms for listing and assessing.

SEC. 907. *Forms for listing and assessing property.*

All forms and books used in the listing and assessing of property for taxation shall have the approval of the State Board of Assessment. The board may, in its discretion, design and prescribe such forms and make arrangements for their purchase and distribution through the Division of Purchase and Contract, the cost of same being billed to the counties.

SEC. 908. *Reference to the Revenue Act.*

Provisions subordinate to Art. VIII, Schedule H, Revenue Act.

None of the provisions contained in any of the sections of this article shall be construed to conflict with Article VIII, Schedule H, of the Revenue Act, but rather shall they be subordinate thereto.

ARTICLE X

SPECIAL PROVISIONS AFFECTING MOTOR VEHICLE OWNERS, WAREHOUSEMEN, ETC.

Information by motor vehicle owners applying for tags.

SEC. 1000. *Information to be given by motor vehicle owners applying for license tags.*

Every motor vehicle owner applying to the State Department of Revenue for motor vehicle license tags shall specify in the application the county in which each such motor vehicle is subject to ad valorem taxation. If any such vehicle is not subject to ad valorem taxation in any county of this State, such fact, with the reason therefor, shall be stated in the application. No State license tags shall be issued to any applicant until the requirements of this subdivision have been met. The Commissioner of Revenue shall, upon request from any county, send to the supervisor of such county a list of motor vehicles subject to ad valorem taxation in such county as shown by the commissioner's records of applications filed during the year preceding the day as of which property is to be assessed, and shall charge the county the sum of thirty cents (30c) per hundred names for the same, said amount to be used by the commissioner as compensation for the preparation of said list.

Report of Commissioner of Revenue to counties.

Fees for reports.

SEC. 1001. *Warehouses and cooperative growers' or marketing associations to furnish lists.*

Warehouses and cooperative associations to furnish lists of property stored.

(1) Every warehouse company or corporation and every growers' or marketing association receiving for storage cotton, tobacco or other products, commodities or property, and issuing warehouse receipts for same, shall, on the day as of which property is

assessed, furnish to the supervisor of the county in which such property is stored a full and complete list of all persons, corporations, partnerships, firms or associations for whom such property is stored, except in cases in which farm produce is stored for its original producer who is a resident of another county in this State, together with the amount of such property stored for each owner and the amount advanced against such property by the warehouse or association. In all cases in which farm produce is stored for its original producer, who is a resident of another county in this State, the names of such producers shall be sent to the supervisors of the respective counties in which such producers reside, together with the amount of such produce stored for them and the amount advanced against such produce by the warehouse or association.

Certain farm products excepted.

(2) Warehouse companies and corporations and growers' and marketing associations shall not be liable for taxation on the property stored with them by others, *provided* lists of the owners and amounts of such property are furnished to the respective supervisors under the provisions of subdivision (1) of this section. If such lists are not so furnished within fifteen days after the day as of which property is assessed, such warehouse or association shall be liable to the respective counties for the tax upon the full value of such property; and if failure to furnish such list is continued for ten days after demand for same by the supervisor of any county, such warehouse or association shall be liable for a penalty of two hundred fifty dollars ($250.00), in addition to the taxes, to be recovered by the proper county in an action in the Superior Court, and both tax and penalty may be recovered in the same action.

Not liable for tax on stored property except upon failure to furnish lists.

Penalty for failure to furnish lists.

SEC. 1002. *Reports by consignees and brokers.*

Reports by consignees and brokers.

Every person, corporation, partnership, or unincorporated association in possession of property on consignment, and all brokers dealing in tangible personal property who have in their possession such property belonging to others, shall file with the supervisor of taxation of the county in which such property is located a full and complete list of the owners of such property, together with the amount of such property owned by each: *Provided*, that if such property is farm produce owned by the original producer, who is a resident of this State, the name of the owner and the amount of such property shall be reported to the supervisor of the county of which such owner is a resident. Consignees and brokers failing to make such reports shall be liable to payment of the tax, and a penalty of two hundred fifty dollars ($250.00), in the same manner and under the conditions set forth in subdivision two of Section one thousand one of this Act.

Farm produce.

Penalty for failure to furnish reports.

SEC. 1003. *Private banks, bankers, brokers and security brokers.*

Listing by private banks, bankers and brokers.

Every bank (not incorporated), banker, broker or security broker, at the time fixed by this Act for listing and assessing all real and personal property, shall make out and furnish to the list takers and assessors a sworn statement showing:

Contents.

Amount of property.

(1) The amount of property on hand and in transit.

Other funds.

(2) The amount of funds owned in the hands of other banks, bankers or brokers.

Cash items.

(3) The amount of checks or other cash items, the amount of which is not included in either of the preceding items.

Credits due.

(4) The amount of bills receivable, discounted or purchased, bonds and other credits due or to become due, including interest receivable and accrued, but not due, and interest due and unpaid.

Other business property.

(5) All other property appertaining to said business, other than real estate, which real estate shall be listed under this Act.

Deposits.

(6) The amount of deposits made with them by any other person, firm or corporation.

Accounts payable.

(7) The amount of all accounts payable, other than current deposit accounts.

License required of security brokers and private bankers.

SEC. 1004. *Persons, firms, banks and corporations dealing in securities on commission taxed as a private banker.*

Security broker defined.

Private banker defined.

Penalty for violation.

No person, bank, or corporation, without a license authorized by law, shall act as a stockbroker or private banker. Any person, bank, or corporation that deals in foreign or domestic exchange, certificates of debt, shares in any corporation or charter companies, bank or other notes, for the purpose of selling the same or any other thing for commission or other compensation, or who negotiates loans upon real estate securities, shall be deemed a security broker. Any person, bank, or corporation engaged in the business of negotiating loans on any class of security or in discounting, buying or selling negotiable or other papers or credits, whether in an office for the purpose or elsewhere, shall be deemed to be a private banker. Any person, firm, or corporation violating this section shall pay a fine of not less than one hundred nor more than five hundred dollars for each offense.

Partnerships.

SEC. 1005. *Partnerships; liability of partners for tax.*

Each partner liable for tax.

For the purpose of listing and assessing property, a copartnership shall be treated as an individual, and its property, real and personal, shall be listed in the name of the firm. Each partner shall be liable for the whole tax.

SEC. 1006. *Reference to the Revenue Act.*

None of the provisions contained in any of the sections of this article shall be construed to conflict with Article VIII, Schedule H, of the Revenue Act, but rather shall they be subordinate thereto. Provisions subordinate to Art. VIII, Schedule H, Revenue Act.

ARTICLE XI

PROCEDURE SUBSEQUENT TO THE CLOSE OF THE TAX LISTING PERIOD

SEC. 1100. *Review of abstracts by supervisor and list takers.*

After the close of the list taking period, and not later than the first meeting of the Board of Equalization and Review, the supervisor shall examine the abstracts turned in by each list taker, and, unless he is satisfied that said list taker has satisfactorily performed the duties of a list taker, shall not approve payment of any compensation to said list taker. Examination of abstracts by supervisors.

The supervisor shall meet with each of the list takers not later than the first meeting of the Board of Equalization, for the purpose of reviewing the abstracts generally to ascertain if the same scales of value have been used in all townships in the county, and if property has been listed at the valuation prescribed by law. Review of abstracts.

SEC. 1101. *Making up the tax records.* Tax records.

The list takers for their respective townships, or such other persons as the commissioners may designate, shall make out, on forms approved by the State Board of Assessment, tax records which may consist of a scroll designed primarily to show tax valuations and a tax book designed primarily to show the amount of taxes or may consist of one record designated to show both valuations and taxes. Such records for each township shall be divided into four parts: (1) White individual taxpayers (including lists filed by corporate fiduciaries for white individual beneficiaries); (2) colored individual taxpayers (including lists filed by corporate fiduciaries for colored individual beneficiaries); (3) Indian individual taxpayers (including lists filed by corporate fiduciaries for Indian individual beneficiaries); and (4) corporations, partnerships, business firms and unincorporated associations. Such records shall show at least the following information: Records for each township. Information to be shown on records.

(a) The name of each person whose property is listed and assessed for taxation, entered in alphabetical order. Name.

(b) The amount of valuation of real property assessed for county-wide purposes (divided into as many classes as the State Board may prescribe). Valuation of real property.

(c) The amount of valuation of personal property assessed for county-wide purposes (divided into as many classes as the State Board may prescribe). Valuation of personal property.

(d) The total amount of real and personal property valuation assessed for county-wide purposes.

Ad valorem tax.

(e) The amount of ad valorem tax due by each taxpayer for county-wide purposes.

Poll tax.

(f) The amount of poll tax due by each taxpayer.

Dog tax.

(g) The amount of dog tax due by each taxpayer.

Valuation in special districts.

(h) The amount of valuation of property assessed in any special district or subdivision of the county for taxation.

Taxes due in special districts.

(i) The amount of tax due by each taxpayer to any special district or subdivision of the county.

Total taxes.

(j) The total amount of tax due by the taxpayer to the county and to any special district, subdivision or subdivisions of the county.

Record of changes in valuation.

All changes in valuations affected between the close of the listing period and the meeting of the Board of Equalization and Review shall be reflected on such records, and so much of such records as may have been prepared shall be submitted to the board at its meetings. Changes made by said board shall also be reflected upon such records, either by correction, rebate or additional charge.

Tax receipts and stubs.

SEC. 1102. *Tax receipts and stubs.*

Such persons as the county commissioners may designate shall fill out the receipts and stubs for all taxes charged upon the tax books. The form of such receipts and stubs shall be approved by the State Board of Assessment and shall show at least the following:

Form and contents.

Name.

(a) The name of the taxpayer charged with taxes.

Valuation of real property.

(b) The amount of valuation of real property assessed for county-wide purposes.

Valuation of personal property.

(c) The amount of valuation of personal property assessed for county-wide purposes.

Total valuation.

(d) The total amount of valuations of real and personal property assessed for county-wide purposes.

Rate of taxes levied.

(e) The rate of tax levied for each county-wide purpose, the total rate for all county-wide purposes, and the rate levied for any special district or subdivision of the county, which tax is charged to the taxpayer.

Valuation in special districts.

(f) The amount of the valuation of property assessed in any special district or subdivision of the county.

Ad valorem tax.

(g) The amount of ad valorem tax due by the taxpayer for county-wide purposes.

Poll tax.

(h) The amount of poll tax due by the taxpayer.

Dog tax.

(i) The amount of dog tax due by the taxpayer.

(j) The amount of tax due by the taxpayer to any special districts or subdivisions of the county. Special tax.

(k) The total amount of tax due by the taxpayer to the county and to any special district, subdivision or subdivisions of the county. Total tax.

(l) Amount of discounts. Discounts.

(m) Amount of penalties. Penalties.

SEC. 1103. *Disposition of tax records and receipts.*

The tax records shall be filed in the office of the supervisor or official computing the taxes of the office of the accountant or clerk to the Board of Commissioners, as the commissioners may direct. Tax records filed with supervisor.

The tax receipts and stubs shall be delivered to the Sheriff or tax collector on or before the first Monday in October of the year one thousand nine hundred thirty-nine, and annually thereafter, *provided* he has made settlement as by law required, and the Sheriff or tax collector shall receipt for the same. In the discretion of the commissioners, a duplicate copy of the tax books may be made and delivered to the Sheriff or tax collector at the same time. Receipts and stubs delivered to sheriff or tax collector. Duplicate copies.

A list of all appeals pending before the State Board of Assessment shall be delivered with said receipts; and there shall be delivered with said receipts an order, a copy of which shall be spread upon the minutes of the commissioners, directing the Sheriff or tax collector to collect said taxes, which order shall have the force and effect of a judgment and execution against the property, real and personal, charged in the tax book and receipts, and shall be in substantially the following form: Appeals pending. Order for collection.

"North Carolina, ...County, ...City. Form.
To the Sheriff or Tax Collector of .....County, or .....City, or Town:

You are hereby authorized, empowered and commanded to collect the taxes set forth in the tax books, filed in the office of ....., and in the tax receipts herewith delivered to you, in the amounts and from the taxpayers likewise therein set forth, and such taxes are hereby declared to be a first lien on all real property of the respective taxpayers in .....County, or .....City or Town, and this order shall be a full and sufficient authority to direct, require and enable you to levy on and sell any real or personal property of such taxpayers, for and on account thereof, in accordance with law.

Witness my hand and official seal, this .....day of ....., 19.....

.....(Seal)
Chairman, Board of Commissioners.

Attest:

.....
Clerk of Board."

SEC 1104. *Compensation of officer computing taxes.*

Compensation of tax officials.

The Board of County Commissioners shall make an order for the payment to the Register of Deeds, auditor, tax clerk, supervisor, or other official such sum as may be in their discretion a proper compensation for the work of computing taxes, making out the tax book and copies thereof, and the making of such reports as may be required by the State Board of Assessment; but the compensation allowed for computing the taxes and making out the tax book is not to exceed ten cents (10c) for each name appearing on the tax book, which shall include the original and duplicate tax book and also the receipts and stubs provided for in this Act.

Maximum.

SEC. 1105. *County Board of Equalization and Review.*

County Commissioners to serve as County Board of Equalization and Review.

Special boards unaffected.

(1) Personnel. The County Board of Equalization and Review of each county shall be composed of the Board of County Commissioners. Nothing in this Act shall be construed as repealing any law creating a special Board of Equalization and Review, or creating any board charged with the duty of equalization and review in any county.

Compensation and expenses.

(2) Compensation. The members of the Board of Equalization and Review shall be allowed the same per diem compensation and traveling expense, while actually engaged in the performance of their duties, as is ordinarily paid to the members of the Board of County Commissioners, such compensation to be paid by the county.

Oath of member of Board.

(3) Oath. Before entering upon their duties each member of the Board of Equalization and Review shall take and subscribe to the following oath and file the same with the Clerk of the Board of County Commissioners: "I do solemnly swear (or affirm) that I will faithfully discharge my duties as a member of the Board of Equalization and Review of.....County, North Carolina; and that I will not allow my actions as a member of said board to be influenced by personal or political friendships or obligations.

Form.

....."

(Signature.)

Supervisor to act as clerk.

(4) Clerk. The supervisor shall act as clerk to said board, shall be present at all meetings and give to the board such information as he may have or can obtain with respect to the valuation of taxable property in the county.

Time of meetings of Board.

(5) Time of meeting. Said board shall hold its first meeting on the eleventh Monday following the day on which tax listing began, and may adjourn from time to time as its duties may require; but it shall complete its duties not later than the third Monday following its first meeting.

(6) Notice of meeting. Notice of the time, place and purpose of the first meeting of said board shall be given by publishing said notice at least three times in some newspaper published in the county, the first publication to be at least ten days prior to said meeting. Publication of notice of meeting.

(7) Powers and duties. Powers and duties.

(a) It shall be the duty of the Board of Equalization and Review to equalize the valuation of all property in the county, to the end that such property shall be listed on the tax records at the valuation required by law; and said board shall correct the tax records for each township so that they will conform to the provisions of this Act. Equalizing valuations. Correction of records.

(b) The board shall, on request, hear any and all taxpayers who own or control taxable property assessed for taxation in the county in respect to the valuation of such property or the property of others. Hearing complaints.

(c) The board shall examine and review the tax lists of each township for the current year; shall, of its own motion or on sufficient cause shown by any person, list and assess any real or personal property or polls subject to taxation in the county omitted from said lists; shall correct all errors in the names of persons, in the description of property, and in the assessment and valuation of any taxable property appearing on said lists; shall increase or reduce the assessed value of any property which in their opinion shall have been returned below or above the valuation required by law; and shall cause to be done whatever else shall be necessary to make said lists comply with the provisions of this Act: *Provided*, that said board shall not change the valuation of any real property from the value at which it was assessed for the preceding year except in accordance with the terms of Sections three hundred and three hundred one of this Act. Examination and review of township tax list. Correction of errors. Adjustments. Limitation on power to change valuation.

(d) The board may appoint committees, composed of its own members or other persons, to assist it in making any investigations necessary in its work. It may also employ expert appraisers in its discretion. The expense of the employment of committees or appraisers shall be borne by the county: *Provided*, that the board may, in its discretion, require the taxpayer to pay the cost of any appraisal by experts demanded by him when said appraisal does not result in material reduction of the valuation of the property appraised and where such valuation is not subsequently reduced materially by the board or by the State Board of Assessment. Appointment of committees, and employment of experts. Cost of appraisals.

(e) The board may subpoena witnesses, or books, records, papers and documents reasonably considered to be pertinent to the decision of any matter pending before it; and any member of the board may administer oaths to witnesses in connection with the taking of testimony. The chairman of the board shall sign the subpoena, and such subpoena shall be served by any officer qualified to serve subpoenas. Judicial powers.

SEC. 1106. *Giving effect to the decisions of the board.*

All changes by decision of board to be reflected upon tax records.

All changes in names, descriptions or valuations made by the Board of Equalization shall be reflected upon the tax records by correction, rebate or additional charge; and when all such changes have been given effect, and the scroll or tax book has been totaled, the members of the Board of Equalization, or a majority thereof, shall sign a statement at the end of the scroll or tax book to the effect that the scroll is the fixed and permanent tax list and assessment roll for the current year, subject to the provisions of this Act. The omission of such endorsement shall not affect the validity of said scroll or tax book, or of any taxes levied on the basis of the valuations appearing in it.

Tax lists and assessment rolls, as corrected, constitute permanent record for year.

Appeals from Board of Equalization and Review to State Board of Assessment.

SEC. 1107. *Appeals from the Board of Equalization and Review to the State Board of Assessment.*

Any property owner, taxpayer, or member of the Board of County Commissioners may except to the order of the Board of Equalization and Review and appeal therefrom to the State Board of Assessment by filing a written notice of such appeal with the Clerk of the Board of County Commissioners within sixty days after the adjournment of the Board of Equalization and Review. At the time of filing such notice of appeal the appellant shall file with the Clerk to the Board of County Commissioners a statement in writing of the grounds of appeal, and shall, within ten days after filing such notice of appeal with the Clerk to the Board of County Commissioners. File with the State Board of Assessment a notice of such appeal and attach thereto a copy of the statement of the grounds of appeal filed with the Clerk to the Board of County Commissioners. Each taxpayer or ownership interest shall file separate and distinct appeals; no joint appeals shall be considered except by and with consent of the State Board of Assessment.

Written notice.

Procedure.

Separate appeals required.

State Board to fix time and place for hearing.

Notice to parties.

Judgment.

Certification to clerk of county board.

The State Board of Assessment shall fix a time for the hearing of such appeal, and shall hear the same in the City of Raleigh, or such other place within the State as the said board may designate; shall give notice of time and place of such hearing to the appellant, appellee, and to the Clerk to the Board of County Commissioners at least ten days prior to the said hearing; shall hear all the evidence or affidavits offered by the appellant, appellee, and the Board of County Commissioners, shall reduce, increase, or confirm the valuation fixed by the Board of Equalization and Review and enter it accordingly, and shall deliver to the Clerk of the Board of County Commissioners a certified copy of such order, which valuation shall be entered upon the fixed and permanent tax records and shall constitute the valuation for taxation.

SEC. 1108. *Powers of the commissioners with respect to the records after adjournment of the Board of Equalization.*

Power of County Commissioners to authorize changes in tax records.

After the Board of Equalization has finished its work and the changes effected by it have been given effect on the tax records, the Board of County Commissioners may not authorize any changes to be made on said records except as follows:

Decision of Board on appeal.

(1) To give effect to the decision of the State Board of Assessment on appeal.

Additions to records.

(2) To add to the records any valuation certified by the State Board of Assessment with respect to property assessed in the first instance by said State Board, or to give effect to any valid corrections made in such assessments by the State Board.

Correction of names and description.

(3) To correct the name of any taxpayer appearing on said records erroneously, or to substitute the name of the person who should have listed property for the name appearing on the records as listing said property, or to correct descriptions on said records, and any such corrections or substitutions shall have the same force and effect as if the name of the taxpayer or the description had been correctly listed in the first instance.

Correction of clerical errors.

(4) To correct valuations or taxes appearing erroneously on the records as the result of clerical errors.

Additions of discovered property.

(5) To add any discovered property under the provisions of this Act.

Reassessments in certain cases.

(6) To reassess property when the supervisor reports that, since the completion of the work of the Board of Equalization, facts have come to his attention which render it advisable to raise or lower the assessment of some particular property of a given taxpayer: *Provided,* that no such reassessment shall be made unless it could have been made by the Board of Equalization had the same facts been brought to the attention of said Board of Equalization: *Provided further,* that this shall not authorize reassessment because of events or circumstances not taking place or arising until after the tax listing day.

Changes by supervisor.

(7) The Board of County Commissioners may give the supervisor general authority to make any changes under this section except those under Subsection (six); but neither the board nor the supervisor shall make any changes under Subsections (three) or (six) which adversely affect the interests of any taxpayer without giving such taxpayer written notice and an opportunity to be heard prior to final determination.

Notice and opportunity for hearing.

Discovery of property not listed.

SEC. 1109. *Discovery and assessment of property not listed during the regular listing period.*

Duties of commissioners, supervisors and list takers.

(1) Duty of commissioners, supervisors and list takers; carrying forward real estate. It shall be the duty of the members of the Board of Commissioners, the supervisor and the list takers to be constantly looking out for property and polls which have not been listed for taxation. After any tax list or abstract has

been delivered to a list taker, the supervisor or the Board of County Commissioners, and such list taker, supervisor or Board of County Commissioners shall have reason to believe or sufficient evidence upon which to form a belief that the person, firm or corporation making such list or abstract, in person or by agent, has other personal property, tangible or intangible, money, solvent credits, or other thing liable for taxation, they or either of them shall take such action as may be needful to get such property on the tax list.

Unlisted real estate carried forward when listed for preceding year.

Either the list takers for the respective townships, the clerical assistants to the supervisor or the supervisor, as the supervisor may designate, shall examine the tax lists for the current year and the tax records for the preceding year, and carry forward all real property which was listed for the preceding year which has not been listed for the current year. In the discretion of the supervisor, such property may be listed on an abstract signed by the official or employee carrying it forward in the name of the taxpayer, or may be entered directly on the tax scroll or tax book by such official or employee. When such property is so listed in the name of the owner or in the name of the person last listing the same, the listing shall be as valid in every respect as if made by the owner; *Provided,* that such listing shall not render any person individually liable to pay the taxes who is not under a duty to list such property.

Procedure upon discovery of property not listed.

Notice.

(2) Procedure upon discovery. When property or polls are discovered they shall be listed in the name of the taxpayer by the supervisor or some person designated by him. The Clerk to the Board of Commissioners or the supervisor shall mail a notice to the taxpayer at his last known address (or, if unknown, to the occupant or person in possession of such property) to the effect that the Board of Equalization at a designated meeting (or the county commissioners at their next regular meeting, in case the discovery is not made in time for consideration by the Board of Equalization) will assess the value of said property or approve the listing of said poll. At such meeting the board shall hear any objections presented by said taxpayer, render its decision and, if necessary under said decision, assess said property, subject to appeal to the State Board of Assessment, or approve the listing of said poll. Said property and polls may then be added to the regular tax records or placed in a separate record designated "Late Listings," which shall have the same force and effect as the regular records: *Provided,* nothing herein shall prevent valuation of such property or listing of such polls by agreement between the supervisor and taxpayer without action by the Board of Equalization or Board of Commissioners: *Provided, further,* nothing herein shall prevent the carrying forward of real estate, listed for the prior year in accordance with the terms of this Act, without notice to the owner or last person listing said realty unless, in years other than revaluation years, the valuation of such property is raised.

Hearing.

Decision of commissioners.

Right of appeal.

Additions to tax record.

Valuation by agreement.

Property unchanged in value carried forward without notice.

All property and polls not listed during the regular listing period shall, when eventually listed under this section or by the person carrying forward real estate, immediately be subject to the taxes for the various years for which listed or assessed, together with the penalties hereinafter set forth.

Assessment for previous years.

(3) Assessment for previous years; penalties. The county commissioners may assess any such property or list such poll for the preceding years during which it escaped taxation, not exceeding five, in addition to the current year. When real property is discovered which should have been listed for the current year, it shall be presumed that it should have been listed by the same taxpayer for the preceding five years unless the taxpayer shall produce satisfactory evidence that such property was actually listed for taxes during those years or some of them; *Provided,* that this presumption shall not apply when real property is carried forward from the preceding year's records.

Real property.

Personal property.

When personal property is discovered which should have been listed for the current year, it shall be presumed that such property should have been listed by the same taxpayer for the preceding five years, unless the taxpayer shall produce satisfactory evidence that such property was not in existence, that it was actually listed for taxation or that it was not his duty to list the same during said years or some of them. Where it is shown that such property should have been listed by some other taxpayer during a part or all of such preceding years, it may be assessed against such other taxpayer for the proper years, with the penalties as hereinafter prescribed.

In a proper case, property may be listed for one or more prior years during which it escaped taxation, even though it has been regularly listed for the current years, is no longer in existence or is no longer subject to taxation in this State.

Penalties for failure to list.

The penalty for failure to list property or a poll before the close of the regular listing period shall be ten per cent (10%) of the tax levied for the current year on such property or poll. Where such property or poll is taxed for years preceding the current year, the penalty, in addition to that for the current year, shall be ten per cent (10%) per annum. The minimum penalty shall be one dollar ($1.00). Taxes assessed for years preceding the current year shall be assessed at the rate of tax prevailing in the various preceding years.

Record of penalties.

Deemed part of taxes.

The taxes and penalties for each year shall be shown separately on the records, but for the purpose of tax collection and foreclosure the total of all such taxes and penalties shall be regarded as taxes for the current year; and the schedule of discounts and penalties for payment or nonpayment of current taxes shall apply to such taxes and penalties for failure to list, despite the fact that such taxes and penalties for failure to list may not have

been levied until the penalties for failure to pay have already accrued.

Power of commissioners to compromise and adjust claims for taxation.

(4) Commissioners' power to compromise. The Board of County Commissioners or the governing body of any municipal corporation is hereby authorized and empowered to settle or adjust all claims for taxation arising under this section or any other section authorizing them to place on the tax list any property omitted therefrom.

Adjustment of taxes due cities and towns.

(5) Application to cities and towns. The provisions of this section shall extend to all cities, towns and other municipal corporations having power to tax property or polls, and the power conferred and the duties imposed upon the Board of County Commissioners shall be exercised and performed by the governing body of the municipal corporation.

Power to employ persons to search for unlisted property.

(6) Power to employ searchers. The county commissioners, either separately or in conjunction with one or more municipal corporations in the county, may employ one or more competent men to make a diligent search and to discover and report to the board or the supervisor any unlisted property within the county, to the end that the same may be listed and assessed for taxation as provided in this section: *Provided*, nothing herein shall be construed as allowing a Board of Commissioners to appoint a tax collector unless it is otherwise authorized to do so by law.

Receipts for taxes and penalties assessed against discovered property.

(7) Tax receipts. Tax receipts for the taxes and penalties assessed against the property discovered shall be made up under the provisions of this Act, shall be delivered to the Sheriff or tax collector, who shall be charged with the same, and shall have the same force and effect and shall be a lien on the property in the same manner as if they had been delivered to the Sheriff or tax collector at the time of the delivery of the regular tax bills for the current year.

Appeals to State Board of Assessments.

Notice.

Procedure.

Separate appeals required.

(8) Appeals. Appeals may be had from the assessment fixed by the Board of Equilizatoin or commissioners to the State Board of Assessment. Notice of said appeal must be served upon the Clerk to the Board of Commissioners within sixty days after the assessment is fixed, and said appeal shall be in conformity with the provisions of this Act respecting appeals from boards of equalization. Each taxpayer or ownership interest shall file separate and distinct appeals; no joint appeals shall be considered except by and with consent of the State Board of Assessment.

Classified property.

(9) Classified property. Any property, discovered and listed under the provisions of this section, entitled to classification under the provisions of this Act, shall be classified and assessed in accordance with said provisions.

ARTICLE XII

ASSESSMENT PROCEDURE OF CITIES AND TOWNS

Status of property listed for taxation.

SEC. 1200. *Status of property and polls listed for taxation.*

All property and polls validly listed for taxation in any county, municipal corporation or taxing district shall be thereby also validly listed for taxation by any county, municipal corporation or taxing district in which it has a taxable situs. Said situs shall be determined by the rules prescribed in this Act.

Tax lists of cities and towns may be obtained from county records.

SEC. 1201. *Tax lists and assessment powers of cities and towns.*

All cities and towns may obtain their tax lists from the county records without securing lists signed by the taxpayers, or may set up their own machinery for securing lists from the taxpayers, in the discretion of the governing body.

Valuation by county authorities accepted when city or town situated in one county only.

All cities and towns not situated in more than one county shall accept the valuations fixed by the county authorities, as modified by the State Board of Assessment, under the provisions of this Act: *Provided*, that nothing in this section shall be construed to modify the authority given to cities and towns under this Act with respect to discovered property.

Sections 1101, 1102, 1103 and 1104 hereof, as to tax records, receipts and stubs, etc., made applicable to cities and towns.

With the exception of the provisions relating to dog taxes, the provisions of Sections one thousand one hundred one, one thousand one hundred two, one thousand one hundred three, and one thousand one hundred four of this Act shall apply to cities and towns; and city and town governing bodies shall have the same powers conferred and the duties imposed by said sections upon the Board of County Commissioners, and wherever counties are referred to in said sections it shall be construed to include also cities and towns.

SEC. 1202. *Cities and towns situated in more than one county.*

Assessment procedure for cities and towns situate in more than one county.

For the purpose of municipal taxation, all real and personal property and polls subject to taxation by cities and towns situated in two or more counties shall be listed and assessed as hereinafter set forth.

Appointment of city supervisor of taxation in quadrennial years.

List takers and assessors.

(1) The governing body of each such city or town shall, in quadrennial years, on or before the date fixed for the appointment of the county supervisor, appoint a city supervisor of taxation, and two or more persons to act as list takers and assessors, each of whom, including the supervisor, shall have been resident freeholders in such city or town for a period of not less than twelve months. In years other than quadrennial years such governing body shall, on or before the date fixed for appointment of the county supervisor, appoint one resident freeholder as city supervisor of taxation and, in its discretion, one or more persons to act as list takers and assessors, each of whom shall have been a resident of such city or town for at least twelve months.

Procedure in year other than quadrennial year.

Powers and duties of city supervisor.

List takers and assessors.

(2) With respect to property to be listed for taxation in the city or town the city supervisor shall have the same powers and duties given to the county supervisor under the terms of this Act; and the city list takers and assessors shall have the same powers and duties given to county list takers and assessors under the terms of this Act; and the procedure of listing and assessing shall be, as nearly as possible, the same as that specified for county listing and assessing under the terms of this Act.

Appointment of person to supervise preparation of tax records and receipts.

Clerical assistants.

(3) The governing body of each such city or town may designate some officer or employee of the city or appoint some other person to supervise the preparation of the tax records and receipts, and to make such reports as the State Board of Assessment may request or require, and may employ such clerical assistance in this connection as it may deem advisable.

Other powers and duties of municipal governing bodies.

As Board of Equalization and Review.

Appeals.

Such governing body shall also be vested with the same powers and duties, with respect to the listing of property for city taxation, as are vested by this Act in the county commissioners with respect to the listing of property for county taxation, and shall, with the city supervisor as chairman, sit as a Board of Equalization and Review; and appeals may be taken from said City Board of Equalization to the State Board of Assessment in the same manner as provided in this Act for appeals from the County Boards of Equalization.

Purpose of section to provide necessary machinery for listing and assessing.

(4) The intent and purpose of this section is to provide such cities and towns as lie in two or more counties only with the machinery necessary for listing and assessing taxes for municipal purposes. The powers to be exercised by and the duties imposed on such Boards of Aldermen, Boards of Commissioners or other governing bodies, Boards of Equalization and Review, city supervisor of taxation, list takers and assessors, city clerk and taxpayers shall be the same, and they shall be subjected to the same penalties as provided in this Act for all Boards of County Commissioners, county auditors, Registers of Deeds, Clerks of Boards of County Commissioners, county supervisors, list takers and assessors. The

Adoption of city records by county commissioners.

county commissioners in their discretion may adopt the tax lists, scroll, or assessment roll of such city or town as fixed and determined by the Board of Equalization and Review of such cities or towns, and when so adopted, shall be considered to all intent and purpose the correct and valid list and the fixed and determined assessment roll for the purpose of county taxation.

Expenses of listing and assessing borne by municipality.

Reimbursement in event of adoption of records by county commissioners.

(5) All expenses incident to the listing and assessing of the property for the purpose of municipal taxation as aforesaid shall be borne by the city or town for whose benefit the same is undertaken; *Provided*, that where the county or counties in which such city or town lies shall adopt the list and the fixed, determined assessment of the City Board of Equalization and Review, the County Board of Commissioners may reimburse the governing body in such amounts as in their discretion may be proper.

ARTICLE XIII

REPORTS TO THE STATE BOARD OF ASSESSMENT AND LOCAL GOVERNMENT COMMISSION

Reports to State Board of Assessment and Local Government Commission.

SEC. 1300. *Report of valuation and taxes.*

Reports by county tax officials.

The Clerk of the Board of County Commissioners, auditor, tax supervisor, tax clerk, county accountant or other officer performing such duties shall, at such time as the board may prescribe, return to the State Board of Assessment on forms prescribed by said board an abstract of the real and personal property of the county by townships, showing the number of acres of land and their value, the number of town lots and their value, the value of the several classes of live stock, the number of white and negro polls, separately, and specify every other subject of taxation and the amount of county tax payable on each subject and the amount payable on the whole. At the same time said clerk, auditor, supervisor or other officer shall return to the State Board of Assessment an abstract or list of the poll, county and school taxes payable in the county, setting forth separately the tax levied on each poll and on each hundred dollars value of real and personal property for each purpose, and also the gross amount of every kind levied for county purposes, and such other and further information as the State Board of Assessment may require.

Abstracts of real and personal property, by townships.

Contents.

List of taxes payable in county.

SEC. 1301. *Clerks of cities and towns to furnish information.*

Information furnished by tax officials of cities and towns.

The clerk or auditor of each city and town in this State shall annually make and transmit to the State Board of Assessment, on blanks furnished by said board, a full, correct, and accurate statement showing the assessed valuation of all property, tangible and intangible, within his city or town, and separately the amount of all taxes levied therein by said city or town, including school district, highway, street, sidewalk, and other similar improvement taxes for the current year, and the purposes for which the same were levied; and shall annually furnish to the Local Government Commission a complete and detailed statement of the bonded and other indebtedness of the city or town, the accrued interest on the same, whether not due or due and unpaid, and the purposes for which said indebtedness was incurred.

Assessed valuation of all property.

Amount of taxes levied.

Purpose of levies.

Statement of indebtedness.

SEC. 1302. *County indebtedness to be reported.*

Annual report by county auditor as to indebtedness of county.

The auditor or county accountant of each county in this State shall make and deliver annually to the Local Government Commission a full, correct and accurate statement of the bonded and other indebtedness of his county, including township, school districts, and special tax districts, the purposes for which the same was incurred, and all accrued interest, whether not due or due and unpaid.

SEC. 1303. *Penalty for failure to make report.*

Penalty for failure to make required reports.

Every Register of Deeds, auditor, county accountant, supervisor of taxation, assessor, Sheriff, Clerk of Superior Court, Clerk of Board of County Commissioners, county commissioners, Board of Aldermen or other governing body of a city or town, mayor, clerk of city or town, or any other public officer, who shall wilfully fail, refuse, or neglect to perform any duty required, to furnish any report to the State Board of Assessment or Local Government Commission as prescribed in this or the Revenue Act, or who shall wilfully and unlawfully hinder, delay or obstruct said board in the discharge of its duties, shall, for every such failure, neglect, refusal, hindrance or delay, in addition to the other penalties imposed in this and the Revenue Act, pay to the State Board of Assessment or Local Government Commission for the general fund of the State the sum of one hundred dollars ($100.00), such sum to be collected by said board or Local Government Commission. A delay of thirty days to make and furnish any report required or to perform a duty imposed shall be prima facie evidence that such delay was wilful.

ARTICLE XIV

LEVY OF TAXES AND PENALTIES FOR FAILURE TO PAY TAXES

Levy of taxes.

SEC. 1400. *Levy of taxes.*

The tax levying authorities of the several counties, cities, towns and special districts shall, not later than Wednesday after the third Monday in August, levy such rate of tax for the general county purposes as may be necessary to meet the general expense of the county, not exceeding the legal limitation, and such rates for other purposes as may be authorized by law.

SEC. 1401. *Date as of which lien attaches.*

Lien of taxes attaches as of date of listing.

The lien of taxes levied on property and polls listed pursuant to this Act shall attach to real estate as of the day as of which property is listed, regardless of the time at which liability for the tax may arise or the exact amount thereof be determined.

Penalties, interest and costs added to lien.

All penalties, interest and costs allowed by law shall automatically be added to the amount of such lien and shall be regarded as attaching at the same time as the lien for the principal amount of the taxes. Said lien shall attach to all real property of the taxpayer in the taxing unit.

Attachment to real property.

Attachment as to personal property.

Taxes, interest, penalties and cost shall be a lien on personal property from and after levy on or attachment and garnishment of such property.

SEC. 1402. *Levy of poll tax.*

Poll tax of $2.00.

(1) There shall be levied by the Board of County Commissioners in each county a tax of two dollars ($2.00) on each taxable

poll or male person between the ages of twenty-one and fifty years, and the taxes levied and collected under this section shall be for the benefit of the public school fund and the poor of the county. Allocation.

(2) The Board of County Commissioners of every county shall have the power to exempt any person from the payment of poll taxes on account of indigency, and when any such person has been once exempted he shall not be required to renew his application unless the commissioners shall revoke the exemption. When such exemption shall have been made, the Clerk of the Board of County Commissioners shall furnish the person with a certificate of such exemption, and the person to whom it is issued shall be required to list his poll, but upon exhibition of such certificate the list taker shall annually enter in the column intended for the poll the word "exempt," and the poll shall not be charged in computing the list. Poll tax exemptions. Certificate of exemption. Exhibition of certificate.

(3) Cities and towns may levy a poll tax not exceeding that authorized by the Constitution, and poll taxes so levied and collected may be used for any purpose permitted by law. Levy of poll tax by municipalities.

SEC. 1403. *Penalties and discounts for nonpayment of taxes.* Tax discounts and penalties.

All taxes assessed or levied by any county, city, town, special district or other political subdivision of this State, in accordance with the provisions of this Act, shall be due and payable on the first Monday of October of the year in which they are so assessed or levied, and if actually paid in cash: Due date of taxes. Discounts:

(1) On or before the first day of November next after due and payable, there shall be deducted a discount of one-half of one per cent (½ of 1%). October, ½ of 1%.

(2) After the first day of November and on or before the first day of February next after due and payable, the tax shall be paid at par or face value. November, December, January, par.

(3) After the first day of February and on or before the first day of March next after due and payable, there shall be added to the tax a penalty of one per cent (1%). Penalties: February, 1%.

(4) After the first day of March and on or before the first day of April next after due and payable, there shall be added to the tax a penalty of two per cent (2%). March, 2%.

(5) On and after the second day of April the penalty shall be, in addition to said two per cent (2%), one-half of one per cent per month or fraction thereof until paid from said day on the principal amount of such taxes, which shall continue to accrue on taxes not included in a certificate of sale and which, on taxes included in a certificate of sale, shall continue to accrue until the date of such certificate. Additional penalties after April 1.

Prepayment between July 1 and October 1.

Discounts:
Before July 1, 2%.
July, 1½%.
August, 1%.

(6) Should any taxpayer desire to make a prepayment of his taxes between July first and October first of any year, he may do so by making payment to the county or city accountant, city clerk, auditor or treasurer, as the governing body may determine, and shall be entitled to the following discounts: If paid on or before July first, a deduction of two per cent (2%); if paid during the month of July, a deduction of one and one-half per cent (1½%); if paid during the month of August, a deduction of one per cent (1%).

ARTICLE XV

Taxation of banks and trust companies.

TAXATION OF BANKS, BANKING ASSOCIATIONS, TRUST COMPANIES AND BUILDING AND LOAN ASSOCIATIONS

SEC. 1500. *Banks, banking associations and trust companies.*

Computing value of bank stocks.

The value of shares of stock of banks, banking associations, and trust companies shall be determined as follows:

Listing of realty and personal property.

(1) Every bank, banking association, industrial bank, savings institution, trust company, or joint-stock land bank located in this State shall list its real estate and tangible personal property, except money on hand, in the county in which such real estate and tangible personal property is located for the purpose of county and municipal taxation, and shall, during the second calendar month following the month in which local tax listing begins each year, list with the State Board of Assessment, on forms provided by the said State Board, in the name of and for its shareholders, all the shares of its capital stock, whether held by residents or nonresidents, at its actual value on the day as of which property is assessed under this Act.

Also value of shares with names of owners.

Method of computing actual value.

(2) The actual value of such shares for the purpose of this section shall be ascertained by adding together the capital stock, surplus, and undivided profits, and deducting therefrom the assessed value of such real and tangible personal property which such banking institutions shall have listed for taxation in the county or counties of this State wherein such real and tangible personal property is located, together with an amount according to its proportion of tax value of any buildings and lands wholly or partially occupied by such banking associations, institutions or trust companies, owned and listed for taxation by a North Carolina corporation in which such banking associations or institutions own ninety-nine per cent (99%) of the capital stock.

Deductions allowed.

(3) In addition to the deductions allowed in item two of this section, there may be deducted from the items of surplus and undivided profits an amount not exceeding five per cent (5%) of the bills and notes receivable of such banking associations, institutions, or trust companies to cover bad or insolvent debts, investments in North Carolina State bonds, United States Government bonds, joint-stock land bank bonds, and Federal Land bank

Bad debts.

Certain bonds.

bonds, at the actual cost of said bonds owned on and continuously for at least ninety days prior to the day as of which property is assessed in the current year. The value of such shares of capital stock of such banking associations, institutions, or trust companies shall be found by dividing the net amount ascertained above by the number of shares in the said banking associations, institutions or trust companies.

Ascertaining value of shares.

(4) If the State Board of Assessment shall have reason to believe that the actual value of such shares of stock of such banking associations, institutions, or trust companies, as listed with it, is not the true value in money, then the said board shall ascertain such true value by such an examination and investigation as seems proper, and increase or reduce the value as so listed to such an amount as it ascertains to be the true value for the purposes of this section.

State Board may re-value after investigation.

(5) The value of the capital stock of all such banking associations, institutions, and trust companies as found by the State Board of Assessment, in the manner herein described, shall be certified to the county and municipality in which such bank or institution is located: *Provided*, that if any such banking association, institution, or trust company shall have one or more branches, the State Board of Assessment shall make an allocation of the value of the capital stock so found as between the parent and branch bank or banks or trust company in proportion to the deposits of the parent and branch bank, banks, or trust company, and certify the allocated values so found to the counties and municipalities in which the parent and the branch bank, banks, or trust company are located.

Value of capital stock certified to counties and municipalities.

Allocation to branch offices.

(6) The taxes assessed upon the shares of stock of any such banking association, institutions, or trust companies shall be paid by the cashier, secretary, treasurer, or other officer or officers thereof, and in the same manner and at the same time as other taxes are required to be paid in such counties, and in default thereof such cashier, secretary, treasurer, or other accounting officer, as well as such banking association, institution, or trust company, shall be liable for such taxes, and in addition thereto for a sum equal to ten per cent (10%) thereof. Any taxes so paid upon any such shares may, with the interest thereon, be recovered from the owners thereof by the banking association, institution, or trust company or officers thereof paying them, or may be deducted from the dividends accruing on such shares. The taxation of such shares of capital stock shall not be at a greater rate than is assessed upon other moneyed capital in the hands of individual citizens of this State coming in competition with the business of such banking associations, institutions, or trust companies.

Tax upon stock to be paid by bank officers.

Individual liability for taxes.

Recovery of taxes paid from owners of stock.

Rate of taxation on stock.

(7) In case of the failure or refusal of any bank, banking association or trust company to make and deliver to the State Board of Assessment any statement or statements required by

Penalty for failure or refusal to furnish required reports.

this Act, such bank, banking association or trust company shall forfeit and pay to the State of North Carolina the sum of one hundred dollars ($100.00) for each additional day such report is delinquent beyond the last day of the month in which said report is required to be made, such penalty to be sued for and recovered in any proper form of action in the name of the State of North Carolina on the relation of the State Board of Assessment, and such penalty, when collected, shall be paid into the general fund of the State.

Action for recovery of penalty.

Building and loan associations.

SEC. 1501. *Building and loan associations.*

Listing by domestic associations.

(1) The secretary of each building and loan association organized and/or doing business in this State shall list with the local assessors all the tangible real and personal property owned on the day as of which property is assessed each year, which shall be assessed and taxed as like property of individuals.

Assessment.

Listing by foreign associations through agents.

(2) All foreign building and loan associations doing business in this State shall list for taxation, during the second calendar month following the month in which local tax listing begins each year, with the State Board of Assessments, through their respective agents, its stock held by citizens of this State, with the name of the county, city, or town in which the owners of said stock reside. In listing said stock for taxation the withdrawal value as fixed by the by-laws of each such association shall be furnished to the said board, and the stock shall be valued for taxation at such withdrawal value.

Assessed at withdrawal value.

Failure to list bars operation in State.

Collection of dues thereafter made misdemeanor.

Any association or officer of such association doing business in the State who shall fail, refuse or neglect to so list shares owned by citizens of this State for taxation shall be barred from doing business in this State; any local officer or other person who shall collect dues, assessments, premiums, fines, or interest from any citizen of this State for any such association which has failed, neglected ,or refused to so list for taxation the stock held by citizens of this State shall be guilty of a misdemeanor, and fined and/or imprisoned in the discretion of the court.

Certification of value of shares to Registers of Deeds.

The value of the shares of stock so held by citizens of this State, as found by the State Board of Assessment, shall be certified to the Register of Deeds of the county in which such shareholders reside, shall be placed on the assessment roll in the name of such holders thereof, and taxed as other property is taxed.

SEC. 1502. *Reference to the Revenue Act.*

Provisions subordinate to Art. VIII, Schedule H, Revenue Act.

None of the provisions contained in any of the sections of this article shall be construed to conflict with Article VIII, Schedule H, of the Revenue Act, but rather shall they be subordinate thereto.

SEC. 1503. *Assessment record; secrecy directed.*

The State Board of Assessment shall prepare and keep a record book in which it shall enter a correct list of all the corporations, limited partnerships, joint-stock associations, banks, banking associations, industrial banks, savings institutions, and trust companies which it has assessed for taxation, and said record shall show the assessed valuation placed upon them; and the State Board of Assessment shall not divulge or make public any report of such corporation, partnership, or association required to be made to it, except as provided in this or the Revenue Act.

State Board to keep record of all corporations, partnerships, etc.

Contents.

Secrecy enjoined.

ARTICLE XVI

PUBLIC SERVICE COMPANIES

Public service companies.

SEC. 1600. *Telegraph companies.*

Telegraph companies.

Every joint-stock association, company, copartnership or corporation, whether incorporated under the laws of this State or any other state or any foreign nation, engaged in transmitting to, from, through, in, or across the State of North Carolina telegraph messages shall be deemed and held to be a telegraph company; and every such telegraph company shall, during the second calendar month following the month in which local tax listing begins each year, make out and deliver to the State Board of Assessment a statement, verified by oath of the officer or agent of such company making such statement, with reference to the day as of which property is assessed next preceding, showing:

Defined.

Annual report to State Board.

Contents.

First. The total capital stock of such association, company, copartnership, or corporation.

Capital stock.

Second. The number of shares of capital stock issued and outstanding, and the par value of each share.

Outstanding stock and par value.

Third. Its principal place of business.

Place of business.

Fourth. The market value of said shares of stock on the day as of which property is assessed next preceding; and if such shares have no market value, then the actual value thereof.

Market or actual value of stock.

Fifth. The real estate, structures, machinery, fixtures, and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State, and the location and assessed value thereof in each county where the same is assessed for local taxation.

Location and assessed value of all property in State.

Sixth. The specific real estate, together with the permanent improvements thereon, owned by such association, company, copartnership, or corporation situated outside the State of North Carolina and not directly used in the conduct of the business, with a specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Real estate and improvements outside State and assessed value.

Mortgages.

Seventh. All mortgages upon the whole or any part of its property, together with the dates and amounts thereof.

Length of lines in and outside of State.

Eighth. (a) The total length of lines of said association or company; (b) the total length of so much of their lines as is outside of the State of North Carolina; (c) the length of the lines and wire mileage within each of the counties, townships, and incorporated towns within the State of North Carolina.

Other information.

Ninth. Such other and further information as the State Board of Assessment may require.

Telephone companies.

SEC. 1601. *Telephone companies.*

Every telephone company doing business in this State, whether incorporated under the laws of this State or any other state, or of any foreign nation, shall, during the second calendar month following the month in which local tax listing begins each year, make out and deliver to the State Board of Assessment of this State a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the day as of which property is assessed next preceding, showing:

Annual report to State Board.

Contents.

Capital stock.

First. The total capital stock of such association, company, copartnership, or corporation invested in the operation of such telephone business.

Outstanding stock and par or face value.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share.

Place of business.

Third. Its principal place of business.

Market or actual value of stock.

Fourth. The market value of said shares of stock on the day as of which property is assessed next preceding; and if such shares have no market value, then the actual value thereof.

Location and assessed value of real estate and equipment in State.

Fifth. The real estate, structures, machinery, fixtures, and appliances owned by said association, company, copartnership, or corporation and subject to local taxation within the State, and the location and assessed value thereof in each county where the same is assessed for local taxation.

Location and assessed value of real estate and improvements outside State.

Sixth. The specific real estate, together with the permanent improvements thereon, owned by such association, company, copartnership, or corporation, situated outside of the State of North Carolina, and not used directly in the conduct of the business, with a specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Mortgages.

Seventh. All mortgages upon the whole or any of its property, together with the dates and amounts thereof.

Length of lines in and outside State.

Eighth. (a) The total length of the lines of said association or company; (b) the total length of so much of their lines as is outside of the State of North Carolina; (c) the length of the lines

and wire mileage within each of the counties, townships, and incorporated towns within the State of North Carolina.

Ninth. Such other and further information as the State Board of Assessment may require. Other information.

SEC. 1602. *Express companies.* Express companies.

Every joint-stock association, company, copartnership, or corporation, incorporated or acting under the laws of this State or any other state, or any foreign nation, engaged in carrying to, from, through, in or across this State, or any part thereof, money, packages, gold, silver, plate, merchandise, freight, or other articles, under any contract, expressed or implied, with any railroad company or the managers, lessees, agents or receivers thereof, *provided* such joint-stock association, company, copartnership or corporation is not a railroad company, shall be deemed and held to be an express company within the meaning of this Act; and every such express company shall, during the second calendar month following the month in which local tax listing begins each year, make out and deliver to the State Board of Assessment a statement, verified by the oath of the officer or agent of such association, company, copartnership or corporation making such statement, with reference to the day as of which property is assessed next preceding, showing: Defined. Annual report to State Board. Contents.

First. The total capital stock or capital of said association, copartnership or corporation. Capital stock.

Second. The number of shares of capital stock issued and outstanding, and the par or face value of each share; and in case no shares of capital stock are issued, in what manner the capital stock thereof is divided, and in what manner such holdings are evidenced. Outstanding stock and par or face value.

Third. Its principal place of business. Place of business.

Fourth. The market value of said shares of stock on the day as of which property is assessed next preceding; and if such shares have no market value, then the actual value thereof; and in case no shares of stock have been issued, state the market value, or the actual value in case there is no market value, of the capital thereof, and the manner in which the same is divided. Market or actual value of stock.

Fifth. The real estate, structures, machinery, fixtures and appliances owned by the said association, company, copartnership or corporation, and subject to local taxation within the State of North Carolina, and the location and assessed value thereof in each county where the same is assessed for local taxation. Location and assessed value of real estate and equipment in State.

Sixth. The specific real estate, together with the improvements thereon, owned by the association, company, copartnership or corporation situated outside the State of North Carolina, and not Location and assessed value of real estate and improvements outside State.

used directly in the conduct of the business, with a specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situated.

Mortgages.

Seventh. All mortgages upon the whole or any part of its property, together with the dates and amounts thereof.

Length of lines in and outside State.

Eighth. (a) The total length of the lines or routes over which such association, company, copartnership or corporation transports such merchandise, freight, or express matter; (b) the total length of such lines or routes as are outside the State of North Carolina; (c) the length of such lines or routes within each of the counties, municipalities and townships within the State of North Carolina.

Other information.

Ninth. Such other and further information as the State Board of Assessment may require.

Sleeping car companies.

SEC. 1603. *Sleeping-car companies.*

Defined.

Every joint-stock association, company, copartnership or corporation incorporated or acting under the laws of this or any other state, or of any foreign nation, and conveying to, from, through, in or across this State, or any part thereof, passengers or travelers in palace cars, drawingroom cars, sleeping cars, dining cars, or chair cars, under any contract, expressed or implied, with any railroad company or the managers, lessees, agents or receivers thereof, shall be deemed and held to be a sleeping-car company for the purposes of this Act, and shall hereinafter be called "sleeping-car company"; and every such sleeping car company doing business in this State shall, during the second calendar month following the month in which local tax listing begins each year, make out and deliver to the State Board of Assessment a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the day as of which property is assessed next preceding, showing:

Annual report to State Board.

Contents.

Capital stock.

First. The total capital stock of such sleeping car company invested in its sleeping-car business.

Outstanding stock and par or face value.

Second. The number of shares of such capital stock devoted to the sleeping-car business issued and outstanding and the par or face value of each share.

State of incorporation.

Third. Under the laws of what state it is incorporated.

Place of business.

Fourth. Its principal place of business.

President and secretary.

Fifth. The names and post office addresses of its president and secretary.

Cash value of stock.

Sixth. The actual cash value of the shares of such capital stock devoted to its sleeping-car business on the day as of which property is assessed next preceding such report.

Seventh. The real estate, structures, machinery, fixtures, and appliances owned by said sleeping-car company and subject to local taxation within this State, and the location and assessed value thereof in each county within this State where the same is assessed for local taxation. Location and assessed value of real estate and equipment in State.

Eighth. All mortgages upon the whole or any part of its property, and the amounts thereof, devoted to its sleeping-car business. Mortgages.

Ninth. (a) The total length of the main line of railroad over which cars are run; (b) the total length of so much of the main lines of railroad over which the said cars are run outside of the State of North Carolina; (c) the length of the lines of railroads over which said cars are run within each of the counties within the State of North Carolina: *Provided*, that where the railroads over which said cars run have double tracks, or a greater number of tracks than a single track, the statement shall only give the mileage as though such tracks were but single tracks; and in case it shall be required, such statement shall show in detail the number of miles of each or any particular railroad or system within the State. When the assessment shall have been made by the State Board of Assessment in accordance with Section sixteen hundred eight of this Act, the board shall thereupon notify the officer attesting such report of the amount assessed against it, and such sleeping-car company shall have twenty days within which to appear and make objection, if any it shall have, to said assessment. If no objection be made within twenty days, the State Board of Assessment shall certify to the county commissioners of the several counties through which such cars are used the value of the property of such sleeping-car company within such county in the proportion that the number of miles of railroad over which such cars are used in said county bears to the number of miles of railroad over which such cars are used within the State, together with the name and postoffice address of the officers attesting such report of such sleeping-car company, with the information that tax bills, when assessed, are to be sent to him by mail; an dsuch value, so certified, shall be assessed and taxed the same as other property within said county. And when the assessment shall have been made in such county, the Sheriff or county tax collector shall send to the address given by the State Board of Assessment to the county commissioners a bill for the total amount of all taxes due to such county, and such sleeping-car company shall have sixty days thereafter within which to pay said taxes; and upon failure of and refusal to do so such taxes shall be collected the same as other delinquent taxes are, together with a penalty of fifty per cent (50%) added thereto, and costs of collection. Length of lines over which cars are run in and outside State. Double tracks deemed single line. Notice to company of assessment. Objections. Certification to counties of assessment. Bill for county taxes. Penalty for failure to pay taxes.

SEC. 1604. *Refrigerator and freight-car companies.* Every person, firm, or corporation owning refrigerator or freight cars operated over or leased to any railroad company in this State or Refrigerator and freight-car companies.

Taxed in same manner as sleeping car companies.

operating in the State shall be taxed in the same manner as hereinbefore provided for the taxing of sleeping-car companies, and the collection of the tax thereon shall be followed in assessing and collecting the tax on the refrigerator and freight cars taxed under this section: *Provided*, if it appears that the owner does not lease the cars to any railroad company, or make any contract to furnish it with cars, but they are furnished to be run indiscriminately over any lines on which shipper or railroad companies may desire to send them, and the owner receives compensation from each road over which the car runs, the State Board of Assessment shall ascertain and assess the value of the average number of cars which are in use within the State as a part of the necessary equipment of any railroad company for the year ending with the day as of which property is assessed, next preceding the report, and the tax shall be computed upon this assessment. In making distribution of any taxable valuation by virtue of the provisions of this section, the State Board of Assessment shall give primary consideration to the county or counties in which the taxpayer has the greater car mileage.

Computation of average number of cars in State.

Public utilities.

SEC. 1605. *Street railway, waterworks, electric light and power, gas, ferry, bridge, and other public utility companies.* Every street railway company, waterworks company, electric light and power company, gas company, ferry company, bridge company, canal company, and other corporations exercising the right of eminent domain, shall, during the second calendar month following the month in which local tax listing begins each year, make out and deliver to the State Board of Assessment a statement, verified by the oath of the officer or agent of such company making such statement, with reference to the copartnership or corporation, showing:

Enumerated.

Annual report to State Board.

Contents.

Capital stock.

First. The total capital stock of such association, company, copartnership, or corporation.

Outstanding stock and par or face value.

Second. The number of shares of capital stock issued and outstanding and the par or face value of each share.

Place of business.

Third. Its principal place of business.

Market or actual value of stock.

Fourth. The market value of said shares of stock on the day as of which property is assessed next preceding; and if such shares have no market value, then the actual value thereof.

Location and assessed value of real estate and equipment in State.

Fifth. The real estate, structures, machinery, fixtures, and appliances owned by said association, company, copartnership or corporation, and subject to local taxation within the State, and the location and assessed value thereof in each county, municipality and township where the same is assessed for local taxation.

Location and assessed value of real estate and improvements outside State.

Sixth. The specific real estate, together with the permanent improvements thereon, owned by such association, company, copartnership, or corporation situate outside of the State of North Carolina and not directly used in the conduct of the business,

with a specific description of each such piece, where located, the purpose for which the same is used, and the sum at which the same is assessed for taxation in the locality where situate.

Seventh. All mortgages upon the whole or any part of its property, together with the dates and amounts thereof. Mortgages.

Eighth. (a) The total length of the lines of said association or company; (b) the total length of so much of their lines as is outside of the State of North Carolina; (c) the length of lines within each of the counties, municipalities and townships within the State of North Carolina. Length of lines in and outside State.

Ninth. Such other and further information as the State Board of Assessment may require. Other information.

SEC. 1606. *State Board of Assessment may require additional information.* Upon the filing of the statements required in the preceding sections the State Board of Assessment shall examine the same and, if the board shall deem the same insufficient, or in case it shall deem that other information is requisite, it shall require such officer to make such other and further statements as said board may call for. In case of the failure or refusal of any bank, association, company, copartnership, or corporation to make out and deliver to the State Board of Assessment any statement or statements required by this Act, such bank, association, company, copartnership, or corporation shall forfeit and pay to the State of North Carolina one hundred dollars ($100.00) for each additional day such report is delayed beyond the last day of the month in which required to be made, to be sued for and recovered in any proper form of action in the name of the State of North Carolina on the relation of the State Board of Assessment, and such penalty, when collected, shall be paid into the general fund of the State. State Board may require additional information. Penalty for failure to render reports.

SEC. 1607. *State Board of Assessment shall examine statements.* The State Board of Assessment shall thereupon value and assess the property of each association, company, copartnership, or corporation in the manner hereinafter set forth, after examining such statements and after ascertaining the value of such properties therefrom and upon such other information as the board may have or obtain. For that purpose it may require the agents or officers of said association, company, copartnership, or corporation to appear before it with such books, papers, and statements as it may require, or may require additional statements to be made, and may compel the attendance of witnesses in case the board shall deem it necessary to enable it to ascertain the true cash value of such property. State Board to examine statements and make assessments. Additional statements.

Manner of assessment.

SEC. 1608. *Manner of assessment.*

Ascertainment of value of entire property.

Said State Board of Assessment shall first ascertain the true cash value of the entire property owned by the said association, company, copartnership, or corporation from said statement or otherwise for the purpose, taking the aggregate value of all the shares of capital stock, in case shares have a market value, and in case they have none, taking the actual value thereof or of the capital of said association, company, copartnership, or corporation in whatever manner the same is divided, in case no shares of capital stock have been issued: *Provided, however,* that in case the whole or any portion of the property of such association, company, copartnership, or corporation shall be encumbered by a mortgage or mortgages, such board shall ascertain the true cash value of such property by adding to the market value of the aggregate shares of stock, or to the value of the capital in case there should be no such shares, the aggregate amounts of such mortgage or mortgages, and the result shall be deemed and treated as the true cash value of the property of such association, company, copartnership, or corporation. Such State Board of Assessment shall, for the purpose of ascertaining the true cash value of property within the State of North Carolina ,next ascertain from such statements or otherwise the assessed value for taxation, in the localities where the same is situated, of the several pieces of real estate situated within and without the State of North Carolina and not in any manner used in the general business of such associations, companies, copartnerships or corporations, which assessed value for taxation shall be by said board deducted from the gross value of the property as above ascertained. Said State Board of Assessment shall next ascertain and assess the true cash value of the property, including intangible personal property, of the associations, companies, copartnerships, or corporations within the State of North Carolina by taking as a guide, as far as practicable, the proportion of the whole aggregate value of said associations, companies, copartnerships as above ascertained, after deducting the assessed value of such real estate without the State which the length of lines of said associations, companies, copartnerships or corporations, in the case of telegraph and telephone companies, within the State of North Carolina bears to the total length thereof, and in the case of express companies and sleeping-car companies the proportion shall be in proportion of the whole aggregate value after such deduction, which the length of lines or routes within the State of North Carolina bears to the whole length of lines or routes of such associations, companies, copartnerships or corporations, and such amounts so ascertained shall be deemed and held as the entire value of the property of said associations, companies, copartnerships or corporations within the State of North Carolina: *Provided,* the board shall, in valuing the fixed property in this State, give due consideration to the amount of gross and net earnings per mile of line in this State, and any

Adding amount of mortgages.

Deduction of value of realty in State not used for general business.

Deduction of value of property out of State from aggregate value leaves value within State.

Due consideration given to gross and net earnings per mile, etc.

other factor which would give a greater or less value per mile in this State than the average value for the entire system. From the entire value of the property within the State so ascertained there shall be deducted by the State Board of Assessment the assessed value for taxation of all real estate, structures, machinery, and appliances within the State listed with the local taxing authorities of this State if used in the general business of the taxpayer and subject to local taxation in the counties, as hereinbefore described in Sections sixteen hundred two to sixteen hundred seven, inclusive of this Act, and the assessed value for taxation of all intangible personal property returned and assessed under the provisions of Article VIII, Schedule H of the Revenue Act, and the residue of such value as ascertained, after deducting therefrom the assessed value of such properties, shall be by said board assessed to said associations: *Provided*, the State Board of Assessment shall also assess the value for taxation of all structures, machinery, appliances, pole lines, wire and conduit of telephone and telegraph companies within the State subject to local taxation, but land and buildings located thereon owned by said companies shall be assessed in like manner and by the same officials as though such property was owned by individuals in this State.

Deduction of property in State assessed for local taxes.

Deduction of intangible personal property assessed under Art. VIII, Schedule H, Revenue Act.

All equipment assessed except lands and buildings.

SEC. 1609. *Value per mile.*

Said State Board of Assessment shall thereupon ascertain the value per mile of the property within the State by dividing the total value as above ascertained, after deducting the specific properties locally assessed within the State, by the number of miles within the State, and the result shall be deemed and held as value per mile of the property of such association, company, copartnership, or corporation within the State of North Carolina: *Provided*, the value per mile of telephone and telegraph companies shall be determined on a wire mileage basis.

Value per mile ascertained by dividing above total by number of miles in State.

Wire mileage as to telephone companies.

SEC. 1610. *Total value for each county and municipality.* Said Board of Assessment shall thereupon, for the purpose of determining what amount shall be assessed by it to said association, company, copartnership, or corporation in each county in the State through, across, and into or over which the lines of said association, company, copartnership or corporation extend, multiply the value per mile, as above ascertained, by the number of miles in each of such counties as reported in said statements or as otherwise ascertained, and the result thereof shall be by the secretary of said State board certified to the Chairman of the Board of County Commissioners, respectively, of the several counties through, into, over, or across which the lines or routes of said association, company, copartnership, or corporation extend: *Provided*, the total value of street railways, electric light, power and gas companies, as determined in Section sixteen hun-

Total value for each county obtained by multiplying value per mile by number of miles in county.

Different method for public utilities.

dred eight to be certified to each county, shall be the proportion which the locally assessed value of the physical property in each county bears to the total assessed value of the physical property in the State. Distribution and certification by the State Board of Assessment to the municipalities and other local taxing jurisdictions shall follow the same general rules governing such distribution to the several counties of the State with respect to value per mile and total value as herein set out. All taxes due the State from any corporation taxed under the preceding sections shall be paid by the treasurer of each company direct to the Commissioner of Revenue.

Distribution and certification to municipalities.

Taxes payable direct to Commissioner.

Penalty for failure to pay tax.

SEC. 1611. *Companies failing to pay tax; penalty.* In case any such association, company, copartnership, or corporation as named in this Act shall fail or refuse to pay any taxes assessed against it in any county, municipality or other taxing jurisdiction in this State, in addition to other remedies provided by law for the collection of taxes, an action may be prosecuted in the name of the State of North Carolina by the solicitors of the different judicial districts of the State on the relation of the board of commissioners of the different counties of this State and the judgment in said action shall include a penalty of (50%) of the amount of taxes as assessed and unpaid, together with reasonable attorney's fees for the prosecution of such action, which action may be prosecuted in any county into, through, over or across which the lines or routes of any association, company, copartnership, or corporation shall extend, or in any county where such association, company, copartnership, or corporation shall have an office or agent for the transaction of business. In case such association, company, copartnership, or corporation shall have refused to pay the whole of the taxes assessed against the same by the State Board of Assessment, or in case such association, company, copartnership, or corporation shall have refused to pay the taxes or any portion thereof assessed to it in any particular county or counties, such action may include the whole or any portion of the taxes so unpaid in any county or counties; but the Attorney General may, at his option, unite in one action the entire amount of the tax due, or may bring separate actions to each separate county or adjoining counties, as he may prefer. All collection of taxes for or on account of any particular county made in any such suit or suits shall be by said board accounted for as a credit to the respective counties for or on account of which such collections were made by the said board at the next ensuing settlement with such county, but the penalty so collected shall be credited to the general fund of the State, and upon such settlement being made the treasurers of the several counties shall, at their next settlement, enter credits upon the proper duplicates in their offices, and at the next settlement with such county, report the amount so received by him in his settlement with the State, and proper en-

Suit to recover.

Attorney's fees added.

Venue.

Consolidation of actions to recover taxes due counties.

Penalties directed to general fund.

tries shall be made with reference thereto: *Provided*, that in any such action the amount of the assessments fixed by said State Board of Assessment and apportioned to such county shall not be controverted.

Assessments not controvertible.

SEC. 1612. *State board to constitute board of appraisers.* The State Board of Assessment herein established is constituted a board of appraisers and assessors for railroad, canal, steamboat, hydroelectric, street railway, and all other companies exercising the right of eminent domain.

State Board made appraisers for public utilities.

SEC. 1613. *Railroads; information required.*

Railroads.

The president, secretary, superintendent or other principal accounting officer within this State of every railroad, telegraph, telephone, street railway company, whether incorporated by the laws of this State or not, shall, during the second calendar month following the month in which local tax listing begins each year, return to the State Board of Assessment, verified by the oath or affirmation of the officer making the return, all the following described property belonging to such corporation within the State, viz: The number of miles of such railroad lines in each county and municipality in this State, and the total number of miles in the State, including the roadbed, right-of-way and super structures thereon, main and side tracks, depot buildings and depot grounds, section and tool houses and the land upon which they are situated and necessary to their use, water stations and land, coal chutes and land, and real estate and personal property of every character necessary for the construction and successful operation of such railroad, or used in the daily operation, whether situated on the charter right-of-way of the railroad or on additional land acquired for this purpose, except as provided below, including, also, if desired by the State Board of Assessment, Pullman or sleeping cars or refrigerator cars owned by them or operated over their lines: *Provided, however*, that all machines and repair shops, general office buildings, storehouses and contents thereof, located outside of the right-of-way shall be listed for purposes of taxation by the principal officers or agents of such companies with the list takers of the county where the real and personal property may be situated, in the manner provided by law for the listing and valuation of real and personal property. A list of such property shall be filed by such company with the State Board of Assessment. It shall be the duty of the tax supervisor, County accountant and Register of Deeds, if requested so to do by the State Board of Assessment, to certify and send to the said board a statement giving a description of the property mentioned in the foregoing proviso, and showing the assessed valuation thereof, which value shall be deducted from the total value of the property of such railroad company as arrived at by the board in accordance with Section sixteen hundred fifteen, be-

Annual report to State Board.

Contents.

Miles of lines, buildings, realty and personalty.

Property off right-of-way listed with county list taker.

List filed with State Board.

Such property deductible from total railroad property.

County tax rates certified to State Board.

fore the apportionment is made to the counties and municipalities. The tax supervisor, county accountant and Register of Deeds shall also certify to the board the local rate of taxation for county purposes as soon as the same shall be determined, and such other information obtained in the performance of the duties of their offices as the said board shall require of them; and the mayor of each city or town shall cause to be sent to the said board the local rate of taxation for municipal purposes.

Also municipal rates.

SEC. 1614. *Railroads; information required.*

"Rolling stock" defined.

The movable property belonging to a railroad company shall be denominated, for the purposes of taxation, "rolling stock." Every person, company, or corporation owning, constructing, or operating a railroad in this State shall, during the second calendar month following the month in which local tax listing begins each year, return a list or schedule to the State Board of Assessment which shall contain a correct detailed inventory of all the rolling stock belonging to such company, and which shall distinctly set forth the number of locomotives of all classes, passenger cars of all classes, sleeping cars and dining cars, express cars, horse cars, cattle cars, coal cars, platform cars, wrecking cars, pay cars, hand-cars, and all other kinds of cars, and the value thereof, and a statement or schedule as follows:

Annual schedule of such stock furnished to State Board.

Statement as to capital stock.

Paid up stock.

Value of shares.

Length of lines.

Tangible property.

Other information.

(1) The amount of capital stock authorized and the number of shares into which such capital stock is divided; (2) the amount of capital stock paid up; (3) the market value, or, if no market value, then the actual value of shares of stock; (4) the length of line operated in each county and total in the State; (5) the total assessed value of all tangible property in the State; (6) and, if desired, all the information heretofore required to be annually reported by Section seven thousand nine hundred sixty-four of theConsolidated Statutes. Such schedule shall be made in conformity to such instructions and forms as may be prescribed by the board, and with reference to amounts and value on the day as of which property is assessed for the year for which the return is made.

SEC. 1615. *Tangible and intangible property assessed separately.*

Assessment of tangible property.

(a) At such dates as real estate is required to be assessed for taxation the said Board of Assessment shall first determine the value of the tangible property of each division or branch of such railroad or rolling stock and all the other physical or tangible property. This value shall be determined by a due consideration of the actual cost of replacing the property, with a just allowance for depreciation on rolling stock, and also of other conditions, to be considered as is in the case of private property.

Depreciation and replacement considered.

(b) They shall then assess the value of the franchise, which shall be determined by due consideration of the gross earnings as compared with the operating expenses, and particularly by consideration of the value placed upon the whole property by the public (the value of the physical property being deducted) as evidenced by the market value of all capital stock, certificates of indebtedness, bonds, or any other securities, the value of which is based upon the earning capacity of the property. Assessment of franchise.

(c) The aggregate value of the physical or tangible property, and the franchise, as thus determined, shall be the true value of the property for the purpose of ad valorem taxation, and shall be apportioned in the same proportion that the length of such road in such county bears to the entire length of each division or branch thereof, and the State Board of Assessment shall certify, on or before the first day of September, or as soon thereafter as practicable, to the chairman of the county commissioners and to the mayor of each city or incorporated town the amounts apportioned to his county, city or town. The Board of County Commissioners of each county through which said railroad passes shall assess against the same only the tax imposed for county, township, or other taxing district purposes, the same as is levied on other property in such county, township, or special taxing districts. Total value of tangibles and franchise is value for ad valorem taxation. Apportionment to counties and municipalities.

SEC. 1616. *Railroads; valuation.*

When any railroad has part of its road in this State and part thereof in any other state, the said board shall ascertain the value of railroad track, rolling stock, and all other property liable to assessment by the State Board of Assessment of such company as provided in the next preceding section, and divide it in the proportion to the length such main line of road in this State bears to the whole length of such main line of road and determine the value in this State accordingly: *Provided*, the board shall, in valuing the fixed property in this State, give due consideration to the character of roadbed and fixed equipment, number of miles of double track, the amount of gross and net earnings per mile of road in this State, and any other factor which would give a greater or less value per mile of road in this State than the average value for the entire system. On or after the first Monday in the month following the month in which said reports are required to be made, the said board shall give a hearing to all the companies interested, touching the valuation and assessment of their property. The said board may, if they see fit, require all argument and communications to be presented in writing. Method of assessment upon railroad operating in and out of State. Proportion of road in State to whole line. Hearing granted railroad on assessment.

SEC. 1617. *Railroads; leased lines.*

If the property of any railroad company be leased or operated by any other corporation, foreign or domestic, the property of Property of leased railroads similarly assessed.

the lessor or company whose property is operated shall be subject to taxation in the manner hereinbefore directed; and if the lessee or operating company, being a foreign corporation, be the owner or possessor of any property in this State other than that which it derives from the lessor or company whose property is operated, it shall be assessed in respect to such property in like manner as any domestic railroad company.

Foreign lessee.

SEC. 1618. *Railroads, penalty for failure to furnish required information.* The State Board of Assessment shall have power to summon and examine witnesses and require that books and papers shall be presented to them for the purpose of obtaining such information as may be necessary to aid in determining the valuation of any railroad company. Any president, secretary, receiver, or accounting officer, servant or agent of any railroad or steamboat company having any proportion of its property or roadway in this State who shall refuse to attend before the said board when required to do so, or refuse to submit to the inspection of said board any books or papers of such railroad company in his possession, custody, or control, or shall refuse to answer such questions as may be put to him by said board, or order touching the business or property, monies and credits, and the value thereof, of said railroad company, shall be guilty of a misdemeanor, and on conviction thereof before any court of competent jurisdiction shall be confined in the jail of the county not exceeding thirty days, shall be fined in any sum not exceeding five hundred dollars ($500.00) and costs, and any president, secretary, accounting officer, servant, or agent aforesaid so refusing as aforesaid shall be deemed guilty of contempt of such board, and may be confined, by order of said board, in the jail of the proper county until he shall comply with such order and pay the cost of his imprisonment.

State Board may subpoena witnesses and compel production of records.

Refusal to testify or produce records made misdemeanor.

Punishment.

Attachment for contempt.

SEC. 1619. *Taxes on railroads shall be a lien on property of the same.* The taxes upon any and all railroads in this State, including roadbed, right-of-way, depots, side tracks, ties, and rails, now constructed or hereafter to be constructed, are hereby made a perpetual lien thereupon, commencing from the day as of which property is assessed in each current year, against all claims or demands whatsoever of all persons or bodies corporate except the United States and this State, and the above described property or any part thereof may be taken and held for payment of all taxes assessed against said railroad company in the several counties of this State.

Taxes on railroads made a perpetual lien on property.

SEC. 1620. *Board of Assessment to certify; when tax payable.* The State Board of Assessment shall, upon completion of the assessment directed in the preceding sections, certify to the Register of Deeds or tax supervisor of the counties and the clerk of the board of commissioners of the municipalities through which said companies operate the apportionment of the valuations as

State Board to apportion valuations to counties and municipalities.

hereinbefore determined and apportioned by the board, and the board of county commissioners and taxing authorities of municipalities or other taxing jurisdictions respectively, shall assess against such valuation the same tax imposed for county, township, town, or other tax district purposes, as that levied on all other property in such county, township, town, or other taxing districts. This tax shall be paid to the Sheriff or tax collector of the county and municipality.

Payment of local taxes.

SEC. 1621. *Canal and steamboat companies.*

The property of all canal and steamboat companies in this State shall be assessed for taxation as above provided for railroads. In case any officer fails to return the property provided in this section, the board shall ascertain the length of such property in this State, and shall assess the same in proportion to the length at the highest rate at which property of that kind is assessed by them.

Canal and steamboat companies assessed as are railroads.

ARTICLE XVII

COLLECTION AND FORECLOSURE OF TAXES

Collection and foreclosure of taxes.

SEC. 1700. *Definitions.* As used in this article, unless the context otherwise indicates:

Definitions.

(1) "Tax collector" or "collector" means Sheriffs, tax collectors and all other officials charged with the duty of collecting taxes levied by or for counties, cities, school districts, road districts or other political subdivisions of this State.

"Tax collector" or "collector."

(2) "Taxes" means property taxes (other than taxes levied under Schedule H of the Revenue Act), poll taxes and dog taxes levied by or for counties, cities, school districts, road districts or other political subdivisions of this State.

"Taxes."

(3) "Taxing unit" means any county, city, school district, road district or other political subdivision of this State by or for which taxes are levied.

"Taxing unit."

(4) "City" means any incorporated city or town.

"City."

(5) "District" means any taxing unit other than counties and cities.

"District."

(6) "Person" means any individual, firm, corporation, company, partnership, trust, estate, or fiduciary.

"Person."

SEC. 1701. *Appointment, terms, qualifications and bond of city tax collectors.* The governing body of each city in this State shall appoint a tax collector, who shall be some person of character and integrity, with experience in business or in collection work, to collect taxes levied by the city governing body. The governing body may, in its discretion, designate some of-

Appointment of city tax collectors.

ficial or employee of the city who has other duties, to perform also the duties of tax collector. The governing body shall fix the compensation of said collector and, subject to the provisions of this article, shall prescribe the amount of his bond and approve the sureties thereon. Any premiums on said bond shall be paid in such manner as the governing body may direct. No tax collector shall be allowed to begin his duties until he shall have furnished bond satisfactory to the governing body; nor shall any collector be permitted to continue collecting taxes after his bond has expired without renewal; nor shall any collector be allowed to collect any taxes not covered by his bond.

Compensation.

Bond.

Term.

Removal.

Vacancy appointments.

The collector shall serve for a term of one year and until his successor has been appointed and has qualified. The governing body may, during his term, remove him from office, for good cause shown, upon notice in writing and after giving him an opportunity to appear and be heard at a public session of said governing body: *Provided,* that no hearing shall be necessary in case of removal for failure to meet the conditions prerequisite prescribed by this article for the delivery of the tax books. Any vacancy caused by removal, resignation, death or otherwise shall be filled, for the unexpired term, by appointment of the governing body, unless otherwise provided by this article.

Collection of taxes pending appointments.

Appointments under this article shall be made during the first week in July, one thousand nine hundred thirty-nine, and annually thereafter. Until the first such appointments are made, city taxes shall be collected by the collectors now provided by law, notwithstanding any repealing clauses contained in this article.

Construction of section.

Nothing in this section shall be construed to change the manner of appointment or term of any collector who collects both city and county taxes, or of any city collector whose manner of appointment or term is governed by the city charter.

Collection of county taxes by sheriff and tax collector.

SEC. 1702. *County Sheriffs and tax collectors.* County and district taxes shall be collected by the Sheriffs or tax collectors as provided by law: *Provided,* that district taxes levied by county commissioners and collected by county officials may, for collection and foreclosure purposes, be treated in the same manner as county taxes.

Duties of tax collectors.

Bond.

Records.

Reports.

SEC. 1703. *General duties of tax collectors.* It shall be the duty of each tax collector to employ all lawful means for the collection of all taxes in his hands; to give such bond as may be required of him; to perform such duties in connection with the preparation of the tax records, receipts and stubs as the governing body may direct; to keep adequate records of all collections; and to account for all moneys coming into his hands. At each regular meeting of the governing body he shall submit a report of the amount collected on each year's taxes in his hands, the amount remaining uncollected, and the steps he is taking to en-

courage or enforce payment. The governing body may, at any time, require him to make settlement in full for all taxes in his hands. The governing body may also, at any time, require the collector to send out tax bills or notices, make personal calls upon delinquent taxpayers, or proceed to enforce payment by any lawful means. In addition to the taxes hereinbefore in this article defined, all license, privilege and franchise taxes levied by the taxing unit by which he is employed shall be collected by the collector.

Settlements.

Extra services.

Collection of license, etc. taxes.

The successor in office of any tax collector may continue and complete any process of tax collection, or any proceeding authorized by this article, begun by his predecessor.

Powers of successor.

SEC. 1704. *The tax lien and discharge thereof.*

Tax lien and discharge thereof.

(a) Priority of the tax lien on real property.

Priority.

(1) The lien of taxes shall attach to real property at the time hereinbefore in this Act prescribed.

Lien of taxes.

(2) The liens of taxes of all taxing units shall be of equal dignity and shall be superior to all other assessments, charges, rights, liens, and claims of any and every kind in and to said property, regardless of by whom claimed and regardless of whether acquired prior or subsequent to the attachment of said lien for taxes: *Provided*, that nothing herein shall be construed as affecting such relative priority as may be prescribed by the Revenue Act for the lien of State taxes.

Lien of different units.

(3) The priority of the lien shall not be affected by transfer of title to the real property after the lien has attached, nor shall it be affected by death, receivership or bankruptcy of the owner of said property.

Priority not affected by transfer, death, etc.

(b) Discharge of the lien on realty; release of separate parcels. The tax lien shall continue until the taxes, plus interest, penalties, and costs as allowed by law, have been fully paid.

When the lien of taxes of any taxing unit for any year attaches to two or more parcels of real estate owned by the same taxpayer, said lien may be discharged as to any parcel, at any time prior to advertisement of tax foreclosure sale, in the following manner: (1) Upon payment, by or on behalf of the listing taxpayer, of the taxes for said year on the parcel or parcels sought to be released, with penalties and interest thereon, plus all personal property, poll and dog taxes owed by said taxpayer for the same year, with interest and penalties thereon, and all costs allowed by law; or (2) upon payment, by or on behalf of any person (other than said listing taxpayer) having an interest in said property, of the taxes for said year on the parcel or parcels sought to be released, with interest and penalties thereon, plus a proportionate part of personal property, poll and dog taxes owed by said listing taxpayer for the same year, with interest and penal-

Method provided for discharge of lien on separate properties.

ties thereon, and a proportionate part of costs allowed by law. The proportionate parts shall be determined by the percentage of the total assessed value of the taxpayer's real estate represented by the assessed value of the parcel or parcels sought to be released.

Limitation of application.

Nothing in this section shall be construed to affect the rights of any holder of a tax sale certificate, other than a taxing unit, with respect to any certificate held at the time of ratification of this Act.

Release where property subdivided.

When real estate listed as one parcel is subdivided, a part thereof may be released in the same manner, after the value of such part for tax purposes has been determined by the County Tax Supervisor or, if there is no supervisor, by the County Accountant, and certified by him to the collector.

Receipt for payments in partial release.

It shall be the duty of every collector accepting a payment, made under this section for the purpose of releasing less than all of the taxpayer's real property, to give the person making the payment a receipt setting forth the description of such property appearing on the tax list and bearing a statement that such property is being released; and it shall also be his duty to indicate the property released on the official records of his office. In case of failure on the part of the collector to issue such receipt or make such record, the omission may be supplied at any time.

Force and effect of partial release.

When any parcel of real estate has been released, under this section, from the lien of taxes of any taxing unit for any year, such property shall not thereafter be subject to the lien of any other regularly assessed taxes of the same taxing unit for the same year, whether such other taxes be levied against the listing owner of said property or against some other person acquiring title thereto. No tax foreclosure judgment for such other taxes shall become a lien on such released property; and, upon appropriate request and satisfactory proof of release by any interested person, the Clerk of Superior Court shall indicate on the judgment docket that such judgment is not a lien on said released property: *Provided*, that failure to make such entry shall not have the effect of making said judgment a lien on said released property.

Priority of lien on personal property.

(c) Priority of lien on personal property. The tax lien, when it attaches to personal property, shall, in so far as it represents taxes assessed against the property to which it attaches, be superior to all other liens and rights, whether such other liens and rights are prior or subsequent to the tax lien in point of time. In so far as said tax lien represents taxes not assessed against such property, said tax lien on personal property shall be inferior to prior valid liens and superior to all subsequent liens. As between the liens of different taxing units, the lien first attaching shall be superior.

Liens of different taxing units.

(d) Preference accorded taxes in liquidation of debtor's estates. In all cases in which a taxpayer's assets are in the hands of a receiver or assignee for the benefit of creditors, or are otherwise being liquidated or managed for the benefit of creditors, the taxes owed by such debtor, together with interest, penalties and costs, shall be a preferred claim, second only to administration expenses and specific liens: *Provided*, that this shall not be construed to modify or reduce the priority by this Act given to tax liens on real property or, in case of levy or attachment, the priority by this Act given to tax liens on personal property. Preference in liquidation of estates.

SEC. 1705. *All interested persons charged with notice of taxes.* All persons who have or may acquire any interest in any property which may be or may become subject to a lien for taxes are hereby charged with notice that such property is or should be listed for taxation, that taxes are or may become a lien thereon, and that if taxes are not paid such proceedings may be taken against said property as are allowed by law. Such notice shall be conclusively presumed, whether such persons have actual notice or not. Persons having interest charged with notice.

SEC. 1706. *Prepayments.* Payments on taxes, made before the tax books have been turned over to the collector, shall be made to such official as the governing body of the taxing unit may designate, and the official so designated shall give bond satisfactory to said governing body. If, at the time of such prepayment, the tax rate has not been finally fixed or the valuation of the taxpayer's property has not been finally determined, the prepayment may be made on the basis of the best information available to the collecting official. If it subsequently develops that there has been an overpayment, the excess shall be refunded by the taxing unit, without interest. If it develops that there has been an underpayment, the taxpayer shall be required to pay the balance due, and shall be allowed the same discount or charged the same penalty on such balance as in force with respect to other taxes for the same year at the time such balance is paid. Receipts issued for payments made on the basis of an estimate shall so state, and such receipts shall not release property from the tax lien; but official and final receipts, effecting such release, shall be made available to the taxpayer as soon as possible after determination that the tax has been fully paid. Payment of taxes before fixing of tax rate. Refund of overpayments. Payment of deficiency. Tentative receipts for prepayments.

SEC. 1707. *Delivery of tax books to collector; prerequisites thereto; procedure upon default.*

(a) Time of delivery. The tax books shall be delivered to the collector, upon order of the governing body, on or before the first Monday in October, as hereinbefore in Section one thousand one hundred three of this Act provided. Delivery of tax books to collector.

Settlement and bond as prerequisites.

(b) Settlement and bond as prerequisites; prepayments. The tax books for the current year shall not be delivered to the collector until he shall have: (1) delivered to the chief accounting officer of the taxing unit the duplicates or stubs of such receipts as he may have issued for prepayments lawfully received by him; (2) demonstrated to the satisfaction of said chief accounting officer that all moneys received by him as such prepayments have been deposited to the credit of the taxing unit; (3) made his annual settlement, as hereinafter defined, for all taxes in his hands for collection; and (4) provided bond or bonds for the current taxes and all prior taxes in his hands for collection satisfactory to the governing body: *Provided*, that this shall not authorize any governing body of any unit to accept a bond of lesser amount than that prescribed by any valid local statute applying to said unit.

Accounting for prepayments.

Any other official who has accepted prepayments shall, prior to the delivery of the tax books to the collector, deliver the prepayment receipt duplicates or stubs to the chief accounting officer of the unit and shall demonstrate to the satisfaction of said chief accounting officer that all moneys received by him as such prepayments have been deposited to the credit of the taxing unit: *Provided*, that where said chief accounting officer has himself lawfully accepted prepayments, he shall, not later than the day on which the tax books are delivered to the collector, make settlement therefor with the governing body in such manner and form as said governing body may prescribe.

Settlement by chief accounting officer for prepayments received.

Duties of chief accounting officer.

It shall be the duty of said chief accounting officer: (1) to reduce the original charge made against the tax collector by deducting from the total amount of taxes levied so much of the amount received as prepayments as need not be refunded under the provisions of this article; (2) to secure and retain in his office, available to the taxpayers upon request, the regular receipts for taxes paid in full by prepayments, and to credit such payments on the tax books or accounts delivered to the collector; (3) to prepare refunds for overpayments made by way of prepayment (such disbursements to be made in the same manner as other disbursements of funds of the taxing unit are made); and (4) to credit all partial prepayments as partial payments on the regular receipts or tax accounts.

Procedure upon default by tax collectors.

(c) Procedure upon default. If, on or before the first Monday in October, the regular tax collector shall not meet the requirements prescribed in the preceding subsection, the governing body is hereby required immediately to appoint a special collector, not connected with the regular collector, and deliver to him the tax books for the current year. Said special collector shall give satisfactory bond in the same amount as would be required of the regular collector. He shall receive as compensation two per cent (2%) of his collections or such amount as may be fixed by the governing body; and the compensation received by

Appointment of special collectors.

Bond.

Compensation.

him and the cost of his bond may, in the discretion of the governing body, be deducted from the compensation of the regular collector. If and when the regular collector shall meet the requirements specified in the preceding subsection, the special collector shall make full settlement, in the manner hereinafter provided for collectors retiring from office, and shall then turn over the tax books to the regular collector.

Settlement.

Surrender of books.

(d) Civil and criminal penalties.

Civil and criminal penalties.

(1) Any member of the governing body of any taxing unit who shall vote to deliver the tax books or tax receipts to a tax collector, before said collector has met the requirements prescribed in this section, shall be individually liable for the amount of taxes due by said collector; and any such member so voting, or who willfully fails to perform any duty imposed by this section, shall be guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court.

Members of governing bodies of taxing units.

(2) Any tax collector or other official who shall fail to account for prepayments received in the manner prescribed by this section, and any chief accounting officer failing to perform the duties imposed upon him by this section, shall be guilty of a misdemeanor, subject to fine or imprisonment, or both, in the discretion of the court.

Tax collectors and chief accounting officers.

SEC. 1708. *Installment payments.* The governing body of any taxing unit may, in its discretion, allow payment of taxes in not more than four equal installments, the last of which shall be payable not later than the week preceding the day fixed for the beginning of advertisement of the tax sale. The governing body of any unit permitting such installment payments, shall: (a) provide that, upon default in any installment, penalties shall accrue immediately upon the entire balance remaining unpaid at the same rate which would have accrued had such installment plan not been adopted; or (b) provide that, upon default in any installment, penalties shall accrue upon the amount of such installment at the same rate which would have accrued had such installment plan not been adopted. Payments made to taxing units adopting installment plans shall not be credited on any installment until all prior installments, together with any penalties thereon, have been paid.

Payment of taxes in installments authorized.

Acceleration provision.

Penalties upon default.

It shall be the duty of each governing body and each collector of a taxing unit adopting an installment plan to indicate, on the tax receipts and on any bills or notices sent to taxpayers, the due dates of the installments and the method by which penalties will be ascertained upon default in payment of any installment: *Provided,* that failure to fulfill this requirement shall not affect the validity of the taxes.

Receipts to show due date, etc.

SEC. 1709. *Partial payments.* Unless otherwise directed by the governing body, the tax collector shall, at any time, accept

Partial payments authorized.

partial payments on taxes and issue a partial payment receipt therefor. In crediting a payment on the tax for any year or on any installment, the payment shall first be applied to accrued penalties, interest and costs and then to the principal amount of such tax or installment.

Application of payments.

Payment of taxes.

SEC. 1710. *Payment of taxes; notes and checks.* Taxes shall be payable in existing national currency.

Notes prohibited.

No tax collector shall accept a note of the taxpayer in payment of taxes.

Payment by check.

Any collector may, in his discretion and at his own risk, accept checks in payment of taxes, and either issue the tax receipt immediately or withhold said receipt until the check has been collected. In any case in which a collector accepts a check and issues a receipt, and said check is thereafter returned unpaid, without negligence on the part of said collector in presenting said check for payment, the taxes for which said check was given shall be deemed unpaid; and the collector shall immediately correct his records and shall proceed to collect said taxes either by civil suit on the check or by the use of any remedy allowed for the collection of taxes: *Provided,* that the lien for said taxes shall be inferior to the rights of purchasers for value and of persons acquiring liens of record for value, when such purchasers or lienholders acquire their rights, in good faith and without actual knowledge that such check has not been collected, after examination of the collector's records during the time such records showed the taxes as paid or after examination of the official receipt issued to the taxpayer.

Returned checks.

Purchasers for value without notice protected.

Penalty for returned checks.

In addition to penalties for nonpayment of taxes provided by this Act, and in addition to any criminal penalties provided by law for the giving of worthless checks, the penalty for giving, in payment of taxes, a check which is returned because of insufficient funds or nonexistence of an account of the drawer, shall be ten per cent (10%) of the amount of such check, which shall be added to and collected in the same manner as such taxes.

Statements of amount of taxes due, in form of certificate.

SEC. 1711. *Statements of amount of taxes due.* Any tax collector shall, at the request of the owner or occupant of any land within the taxing unit, or of any person having a lien thereon or interest or estate therein, or of the duly authorized agent or attorney of any such person, furnish a written certificate of the amount of the taxes and assessments levied upon such land for the current year, if such amount has been definitely determined, and for all prior years for which taxes and assessments may be due, together with penalties, interest and costs accrued thereon: *Provided,* that this shall not require any collector to furnish information regarding taxes not in his hands for collection: *Provided, further,* that the person making such request shall specify in whose name said land was listed for taxation for each year for which such information is sought.

Any collector failing or refusing to furnish such certificate, upon request in good faith made as herein provided, shall be liable for a penalty of fifty dollars ($50.00). Penalty for failure to furnish statement.

SEC. 1712. *Place for collection of taxes.* Taxes shall be payable at the office of the collector: *Provided,* that the governing body of any taxing unit may for the convenience of the taxpayers, require the collector, in person or by deputy, to attend at other places, at times to be designated by said governing body, for the collection of taxes. Fifteen days' notice of such times and places shall be given by the collector by advertisement published in some newspaper published in the county, and, if there be no such newspaper published in the county, then by posting such notice at three or more places in said unit. Place for payment of taxes. Notice.

SEC. 1713. *Remedies against personal property.* Remedies against personal property.

(a) Time for. From the first day of the fiscal year until taxes become due the collector shall not proceed against the personal property of the taxpayer, in the manner herein provided, unless there is reasonable ground for believing that the taxpayer is about to remove his property from the State. The collector may proceed against such personal property, in the manner herein provided, at any time after taxes are due and before filing of a tax foreclosure complaint or docketing of a judgment for said taxes as hereinafter provided. Every official charged with the duty of collecting taxes, current or delinquent, shall have power and authority to proceed against such personal property in the manner herein provided.

(b) Relation between remedies against personal property and remedies against real property. The collector may proceed against the personal property of the taxpayer, as herein provided, in his discretion; and he shall proceed against such property: (1) if directed so to do by the governing body; or (2) upon demand by the taxpayer, mortgagee or other person holding a lien upon the real property of the taxpayer: *Provided,* that said taxpayer, mortgagee or other person making said demand shall furnish the collector with a written memorandum describing such personal property and stating where it can be found. Relation between remedies against personal and real property.

After the sale of a tax sale certificate, no person shall be allowed to attack the validity of the sale on the ground that the tax should have been procured from personal property; but this shall not be construed as prohibiting proceedings against personal property after said sale.

(c) Levy upon personal property. Subject to the provisions of this article governing the priority of the lien acquired, the following property may be levied upon and sold for failure to pay taxes: (1) any personal property of the taxpayer, regardless of the time at which it was acquired and regardless of the existence or date of creation of mortgages or other liens thereon; (2) Levy upon personal property.

any personal property transferred by the taxpayer to relatives of the taxpayer; (3) personal property in the hands of a receiver for the taxpayer and in such cases it shall not be necessary for the collector to apply for an order of the court directing payment or authorizing the levy, but said collector may proceed as if the property were not in the hands of a receiver or in the custody of the law; (4) personal property of a deceased taxpayer: *Provided,* the levy is made prior to final settlement of the estate; (5) personal property transferred by the taxpayer, after the taxes levied for were due, by any type of transfer other than those hereinbefore mentioned in this subsection and other than by bona fide sale for value: *Provided,* the levy is made within sixty days after such transfer.

Procedure for sale under execution applies.

The levy and sale shall be governed by the laws regulating levy and sale under execution: *Provided,* that it shall not be necessary for said levy to be made or said sale to be conducted by the Sheriff, and the collector is hereby given the same authority as a Sheriff to make said levy and conduct said sale. The collector shall be entitled to fifty cents for each levy and fifty cents for each actual sale. Said fees, plus actual advertising costs, shall be added to and collected in the same manner as the taxes. The advertising costs, when collected, shall be used to reimburse the taxing unit, which shall advance the cost of said advertising; and the levy and sale fees, when collected, shall be treated in the same manner as other fees collected by said official.

Fees and costs collectible as taxes.

Attachment and garnishment.

(d) Attachment and garnishment. Subject to the provisions of this article governing the priority of rights acquired, the collector may attach wages or other compensation, rents, bank deposits, the proceeds of property subject to levy and sale, or other property incapable of manual delivery: *Provided,* the same belongs to the taxpayer or has been transferred to another under circumstances which would permit it to be levied upon if it were tangible, or is due to the taxpayer or may become due to him within the calendar year; and the person owing same or having same in his possession shall become liable for the taxes to the extent of the amount he owes or has in his possession: *Provided,* that not more than ten per cent of wages or other compensation for personal services shall be liable to attachment and garnishment for failure to pay taxes.

Limitation.

Service of notice upon taxpayer and person in possession.

To proceed under this subsection, the collector shall serve or cause to be served upon the taxpayer and the person owing or having in his possession the wages, rents, debts or other things sought to be attached, a notice showing at least: (1) the name of the taxpayer; (2) the amount of the taxes, penalties and costs (including the fees allowed by this subsection) and year or years for which such taxes were levied; (3) the name of the taxing unit or units by which such taxes were levied; (4) a brief description of the thing sought to be attached; and (5) a statement that the person served has the right to appear, within

ten days after service, before some designated justice of the peace or (if the amount is beyond the jurisdiction of a justice of the peace) the Superior Court in the county in which the taxing unit lies, and show cause why he should not be compelled to pay said taxes, penalties and costs.

Right to appear and show cause why taxes should not be paid.

Notices concerning two or more taxpayers may be combined if they are to be served upon the same person, but in such case the taxes, penalties and costs charged against each taxpayer must be set forth separately.

Notices to two or more taxpayers.

A copy of each notice shall be retained by the collector and a copy shall be filed, not later than the first business day following the day of service, with the justice or court before which the notice is returnable, together with a notation of service. Upon entry of judgment, by default or after appearance and hearing, in favor of the taxing unit, the person so served shall become liable for the taxes, penalties and costs: *Provided*, that payment shall not be required from amounts which are to become due to the taxpayer until they actually become due.

Copy of notice for collector and for court before which returnable.

The fee for serving said notice shall be fixed by the governing body of the taxing unit, not exceeding twenty-five cents if the tax is less than ten dollars and fifty cents if the tax is ten dollars or more: *Provided*, if the taxes of more than one taxpayer are included in the notice, the service fee shall not exceed fifteen cents per taxpayer. The justice's fee shall be twenty-five cents if the tax is less than ten dollars and one dollar if the tax is ten dollars or more plus one dollar for each hearing actually held, but no justices' fees shall be charged except in cases in which judgment is actually entered. Costs in the Superior Court shall be the same as in other proceedings therein. Fees and costs shall be added to and collected as part of the taxes: *Provided*, that if judgment is rendered against the taxing unit such costs and fees shall be paid by the taxing unit. All fees collected by officers shall be disposed of in the same manner as other fees collected by such officers.

Fee for service of notice.

Fee to Justices of the Peace.

Superior Court costs.

Fees and costs collectible as taxes.

(e) Employees of State and its subdivisions. Tax collectors may proceed against the wages, salary or other compensation of officials and employees of this State and its agencies and instrumentalities and officials and employees of political subdivisions of this State and their agencies and instrumentalities in the manner provided by subsection (d) of this section. In such cases the notice shall be served upon the treasurer of the employing government or agency or instrumentality and, if there is no treasurer, then upon the chief financial officer thereof. In the case of notices served upon the State Treasurer, the notice shall state the place and character of the taxpayer's employment.

Employees of State and its subdivisions subject to provisions for attachment and garnishment.

Service of notice.

(f) Lists of employees. Any person, firm or corporation who shall, after written demand therefor, refuse to give the tax collector or tax supervisor a list of all employees of such person,

List of employees furnished on demand.

firm or corporation who may be liable for taxes, shall be guilty of a misdemeanor.

Collection of taxes outside the taxing unit.

SEC. 1714. *Collection of taxes outside the taxing unit.*

If a taxpayer has no property in the taxing unit to which the taxes are due, but does have property in some other unit, or if the taxpayer has removed from the taxing unit in which the taxes are due and has left no property there and is known to be in some other unit in this State, it shall be the duty of the collector to send a copy of the tax receipt, with a certificate stating that such taxes are unpaid, to the collector of the unit in which such property is located or in which such taxpayer is known to be. Such receipt and certificate shall have the force and effect of a tax list of his own unit in the hands of the collector receiving it, and it shall be the duty of such collector to proceed immediately to collect such taxes by any means by which he could lawfully collect taxes of his own unit. The collector receiving such receipt and certificate shall report, within thirty days after such receipt, to the collector who sent the same, either that he has collected the same or is unable to collect the same by any lawful means or that he has begun proceedings for the collection of same. All collections made under this section shall be remitted to the unit levying the tax within five days after such collection, but the collector making collection shall retain ten per centum of the amount thereof, which shall be for his personal use. All reports under this section, reporting that the tax is uncollectible, shall be under oath and shall state that the collector has used due diligence and is unable to collect said taxes by levy, garnishment or otherwise. Upon failure to make such sworn report the collector receiving such receipt and certificate shall be liable on his bond for such taxes.

Receipt and certificate to collector of local unit.

Reports to sending collector.

Remission of collections.

Fees allowed.

Liability of receiving collector for failure to make report.

It shall be the duty of the governing body of each taxing unit to require reports from the tax collector, at such times as it may prescribe (but not less frequently than in connection with each annual settlement), concerning the efforts he has made to locate taxpayers who have removed from the unit, the efforts he has made to locate property in other units belonging to delinquent taxpayers, and the efforts he has made under this section to collect the taxes.

Reports as to taxpayers who have moved from units.

Sales of tax liens on real property.

SEC. 1715. *Sales of tax liens on real property for failure to pay taxes.*

(a) Report of delinquent taxes which are liens on real property. The tax collector of each county and district shall, on the first Monday in April each year, and the tax collector of each city shall, on the second Monday in April each year, report a list of all taxpayers owing taxes for the current year which are liens on real property, and the governing body shall thereupon order sale of the tax lien on said real property of said taxpayers to

Reports of delinquent taxes.

be held at one of the times hereinafter prescribed. For purposes of all subsections of this section, district taxes collected by city tax collectors shall be regarded as city taxes. Order of sale of tax liens by governing bodies.

(b) Date of sale; effect of delay. The county and district sale shall be held on the first Monday, and the city sale on the second Monday, in May or in any of the four succeeding months. Failure to hold said sale within the time prescribed shall not affect the validity of the taxes or the tax liens, nor shall it affect the validity of the sale when thereafter held. All sales held shall begin, in the case of county and district taxes, on the first Monday of the month and, in the case of city taxes, on the second Monday in the month: *Provided*, that where county and city taxes are collected by the same collector, the sale may be held on either of said Mondays. Date of sales. Effect of delay.

No sale shall be delayed or restrained by order of any court of this State.

(c) Advertisement of sale. Public notice of the time, place and purpose of such sale shall be given by advertisement at the door of the courthouse or city hall for four successive weeks preceding such sale, and by advertisement once each week for four successive weeks preceding such sale in some newspaper published in the county. If there be no newspaper published in the county, such advertisement shall be posted in at least one public place in each township, in the case of county taxes, and in at least three public places in the city in the case of city taxes. Advertisement of sale.

Said advertisement shall set forth, in addition to the time, place and purpose of such sale: (1) the name of each taxpayer owing taxes which are a lien on real estate; (2) a brief description of the land listed in the name of each; (3) the principal amount of the taxes owed by each. Failure to include penalties and costs in the amount advertised shall not be construed as a waiver of same, but such advertisement shall state generally that the amounts advertised are subject to be increased by such penalties and costs. Contents of advertisement.

(d) Place and hour of sale. All county and district sales shall be held at the courthouse door, and city sales shall be held at the courthouse door or at the city hall door as the collector may advertise. All sales shall begin at such hour as may be specified in the advertisement, and they may be continued from day to day, if continuance is necessary in order to complete the sales, without further advertisement. Place and hour of sale.

(e) Manner of sale. The sale may be conducted by the collector or any deputy designated by him for the purpose. The tax liens on all parcels advertised against one taxpayer shall be sold as one lot at public outcry to the highest bidder: *Provided*, that in case of county sales, liens on parcels in different townships may be sold separately. The collector may, in his discre- Manner of sale.

tion, demand immediate payment from any successful bidder, and reject such bid upon failure to comply with said demand. No bid shall be received unless for an amount at least equal to the principal amount of the taxes plus all penalties and costs accrued thereon. In the absence of a bid at least equal to such sum the taxing unit shall become the purchaser, without submitting a formal bid, for an amount equal to such sum.

Payment of surplus to person entitled or to C. S. C. for distribution.

In all cases in which bids are accepted which exceed such sum the tax collector shall immediately report such excess to the governing body, and said governing body shall order such excess paid directly to the person entitled thereto or order it paid to the Clerk of Superior Court for distribution as the court may direct.

Costs of sale.

(f) Costs of sale. Costs of sale, which shall be included in the minimum sale price, shall consist of actual advertising cost and a sale fee not exceeding fifty cents (50c) per parcel. Actual advertising cost per parcel shall be determined by the collector, and may be determined upon an advertising lineage basis or an average cost per insertion basis or by any other reasonable method. The taxing unit shall pay all advertising expense, and all advertising cost collected shall be paid to it for use as its governing body may direct. All sale fees collected shall be treated in the same manner as other fees collected by said collector.

Payments made during advertising period.

(g) Payments during the advertising period. At any time between the beginning of the advertisement and the time of actual sale, any parcel may be withdrawn from the sale list by payment of taxes and penalties as required by law and a proportionate part of the advertising cost as determined by the collector. Thereafter, such parcel shall be eliminated from the advertisement: *Provided,* that failure to eliminate such parcel shall not subject the collector to liability if the lien on said parcel is not thereafter actually sold.

Penalty for failure of collector to attend sale.

(h) Failure of collector to attend sale. If any collector shall fail to attend any duly advertised sale, in person or by competent deputy, he shall be guilty of a misdemeanor and liable on his bond to a penalty of three hundred dollars.

Land listed in wrong name.

(i) Land listed in wrong name. No sale shall be void because such real estate was charged in the name of any other person than the rightful owner, if such real estate be in other respects correctly described on the tax list: *Provided,* no sale of the lien on real estate listed in the name of the wrong person shall be valid when the rightful owner has listed the same and paid the taxes thereon.

Proceedings not invalidated on account of irregularities.

(j) Irregularities immaterial. No irregularities in making assessments or in making the returns thereof in the equalization of property as provided by law, or in any other proceeding or requirement, shall invalidate the sale of tax liens on real estate

or sale of real estate in tax foreclosure proceedings, nor in any manner invalidate the tax levied on any property or charged against any person. The following defects, omissions, and circumstances occurring in the assessment of any property for taxation, or in the levy of taxes, or elsewhere in the course of the proceedings, shall be deemed to be irregularities within the meaning of this subsection; the failure of the assessors to take or subscribe an oath or attach an oath to an assessment roll; the omission of a dollar mark or other designation descriptive of the value of figures used to denote an amount assessed, levied, or charged against any property or the valuation of any property upon any record; the failure to make or serve any notice mentioned in this chapter; the failure or neglect of the collector to offer any tax lien or real estate for sale at the time mentioned in the advertisement or notice of such sale; failure of the collector to adjourn the sale from day to day, or any irregularity or informality in such adjournment; any irregularity or informality in the order or manner in which tax liens or real estate may be offered for sale; the failure to assess any property for taxes or to levy any tax within the time prescribed by law; any irregularity, informality or omission in any such assessment or levy; any defect in the description, upon any assessment book, tax list, sales book, or other record, of real or personal property, assessed for taxation, or upon which any taxes are levied, or which may be sold for taxes, *provided* such description be sufficiently definite to enable the collector, or any person interested, to determine what property is meant or intended by the description, and in such cases a defective or indefinite description, on any book, list, or record, or in any notice or advertisement, may be made definite by the collector at any time by correcting such book, list or record, or may be made definite by using a correct description in any tax foreclosure proceeding authorized by this Act, and any such correction shall have the same force and effect as if said description had been correct on the tax list; any other irregularity, informality, or omission or neglect on the part of any person or in any proceedings, whether mentioned in this subsection or not; the neglect or omission to tax or assess for taxation any person or property; the overtaxation of persons or property liable to be taxed.

Irregularities defined and enumerated.

(k) Acts of de facto officers. In all actions, proceedings, and controversies involving the title to real property held under and by virtue of a tax sale or any tax foreclosure proceedings authorized by this article, all acts of assessors, clerks, Sheriffs, collectors, supervisors, commissioners and other officers de facto shall be deemed and construed to be of the same validity as acts of officers de jure.

Acts of de facto officers declared valid.

(l) Proof of sale. The books and records of the office of the collector making the sale, or copies thereof properly certified, shall be deemed sufficient evidence to prove the sale of the tax

Proof of sale.

lien on any real property under this section, the redemption thereof or the payment of taxes thereon.

Wrongful sales knowingly made to defraud owner of property made misdemeanor.

(m) Wrongful sale. Any collector or deputy collector who shall sell, or assist in selling, the tax lien on any real property, knowing the same not to be subject to taxation, or that the taxes for which the lien is sold have been paid, or shall knowingly and willingly sell or assist in selling the tax lien on any real property for payment of taxes to defraud the owner of such real property, or shall knowingly and willingly cause foreclosure proceedings to be instituted against real property so sold, shall be guilty of a misdemeanor, and be liable to a fine of not less than one thousand nor more than three thousand dollars, or to imprisonment not exceeding one year, or to both fine and imprisonment, and to pay the injured party all damages sustained by such act; and all such sales shall be void.

Reimbursement of purchaser in cases of sales made wrongfully or through mistake.

Liability of collector.

When by mistake or wrongful act of the collector a tax lien on real property has been sold on which no tax was due, the taxing unit shall reimburse the purchaser by paying to him the amount expended by him in such purchase, with interest thereon at six per cent per annum; and the collector shall be liable to the taxing unit upon his bond for all amounts so expended by it in excess of the amount received by it from said sale. Any amount paid by a taxing unit under this section for State taxes shall, on proper certificate from the chairman of the governing body, be allowed by the auditor and paid by the treasurer of the State, and the State shall have the right of recovery against the collector on his bond to the amount so paid.

Joint sales by several taxing units.

(n) Joint sales by several taxing units. Wherever the taxes of two or more taxing units are collected by the same collector, one sale shall be held for the taxes of both at such time as is prescribed by law for sales by either; and in the absence of bids the larger unit may become the purchaser, or such units may become joint purchasers, for the benefit of all according to their respective interests: *Provided,* that this shall not repeal any local law designating the purchaser in case of joint sales.

SEC. 1716. *Certificates of sale.*

Certificates of sale issued to private purchasers.

(a) Issued to private purchasers. As soon as possible after sale, but not earlier than payment of the purchase price, the collector shall issue to each successful bidder, other than taxing units, a certificate of sale, for the tax lien on real property of each delinquent, purchased by him, dated as of the day of sale. Property held jointly by two or more owners shall be construed as the property of one delinquent for this purpose. Said certificate shall be in substantially the following form:

"North Carolina, ... (taxing unit) .....". Form of certificate.

I, ... tax collector of ..... (taxing unit) ....., do hereby certify that the tax lien on the following described real property in said taxing unit, to wit: .... (describing the same) ...., was, on the ..... day of ....., ..., duly sold by me in the manner provided by law, for the delinquent taxes of .... for the year ....., amounting to $....., including penalties thereon and costs allowed by law, when and where ..... (name of purchaser) ..... purchased said lien on said real property at the price of $....., said amount being the highest and best bid for same. And I further certify that unless payment of said lien is made, within the time and in the manner provided by law, said ..... (name of purchaser) ....., his heirs or assigns, shall have the right to foreclose said real property by any proceeding allowed by law.

"In witness whereof, I have hereunto set my hand this ..... day of .....

Tax Collector."

A copy of each such certificate shall be retained by the collector in a special book or file designated "Certificates of Sale for Taxes for the Year .....". All payments made on any such certificate shall be made to the collector for the use of the owner of such certificate, and all such payments shall be credited by the collector on the copy of the certificate in his possession, and shall be remitted to the owner of the certificate upon proper receipt therefor. For failure to account for and pay over any such payments the collector shall be liable on his bond to the person entitled thereto. The copies of such certificates in the collector's office shall be the official records for the purpose of determining whether a lien exists in favor of any certificate owner other than a taxing unit. The owner of a certificate may assign it at any time, but said assignment shall not be effective until the collector shall have actually received written notice thereof from the assignor. Each such purchaser, his heirs or assignees, shall have a lien on the real property for the amount of the purchase price, plus interest thereon at the rate of eight per centum per annum, of the same dignity as similar liens owned by taxing units, and shall have the right to foreclose said lien, by action in the nature of an action to foreclose a mortgage, in the manner hereinafter prescribed: *Provided*, that the eight per

Copy of certificate retained and filed.

Payments on certificate credited on copy filed with collector.

Copies constitute official record.

Assignment of certificate.

Rights of purchaser or assignee.

cent per annum interest herein provided shall accrue only on so much of the purchase price as represents the amount of the tax, penalties to the date of sale, and the costs of advertising and sale. Each such purchaser, his heirs and assignees, shall also have a lien for other taxes and assessments levied against said property, paid by him after acquisition of said certificate, whether such taxes or assessments were charged before or after such acquisition. Said lien shall be entitled to the same priorities as the original lien of the taxes and assessments so paid.

Issuance of certificates to taxing units.

(b) Issued to taxing units. The governing body of each taxing unit which becomes the purchaser at a tax sale, as hereinbefore provided, shall determine whether or not it is necessary to issue certificates to and in the name of such unit. If, in the opinion of said governing body, the issuance of such certificates is not necessary in order to provide adequate records of tax liens and tax collections, the said certificates may be dispensed with and the collector ordered to mark or stamp the original tax receipts or accounts "Sold to .....
(name of taxing unit) .....". If issuance of certificates is deemed necessary, they shall be issued in substantially the form set forth in Subsection (a) of this section, with stubs or duplicates on which shall be reflected all payments or assignments. In either case, the taxing unit shall have the right to foreclose the real property by any method authorized by law; and in either case interest at the rate of eight per cent per annum shall accrue, on the amount bid by said unit, from the date of the sale.

Certificate, receipt, etc. presumptive evidence of validity.

(c) Prima facie case. A certificate issued, or a tax receipt or account marked or stamped, in accordance with the provisions of Subdivisions (a) or (b) of this section, shall be presumptive evidence of the regularity of all prior proceedings incident to the sale and of the due performance of all things essential to the validity thereof.

Assignment of liens by taxing unit after sale.

SEC. 1717. *Assignment of liens by taxing unit after sale.* At any time after the sale hereinbefore provided for, any taxing unit may assign any lien owned by it to any person who pays an amount which, if paid by the taxpayer, would be sufficient to discharge said lien. If a certificate has already been issued to the taxing unit, it shall be assigned to the person making the payment, and the copy of stub of such certificate or a copy of such stub, showing such assignment, shall be filed in the manner provided for certificates originally issued to private purchasers. If no certificate has been issued to the taxing unit, a certificate shall immediately be so issued, and said certificate shall be assigned to the person making such payment in the manner set forth in the preceding sentence. The collector to whom the payment is made shall have authority to make all such assignments and issue all such certificates.

The provisions of this section shall be construed as being in addition to the provisions of this article with respect to release of individual parcels of real property from the tax lien. The person making a payment, after the sale hereinbefore provided for, shall have the right to pay the entire amount or to pay an amount sufficient under the provisions of this article to release one or more specified parcels; and such person shall also have the right to demand either assignment of the lien on the property for which the payment is made or to demand complete release of such property from the lien, in his discretion. In cases in which an assignment is made upon payment of an amount less than the amount of the lien on all the real property in one certificate, new certificates may be made to effect the separation.

Release of one or more parcels after assignment.

SEC. 1718. *Settlements.*

(a) Annual settlement of tax collector.

Annual settlement of tax collector.

(1) Preliminary report. On the second Monday following the sale of certificates, the tax collector shall, under oath, report to the governing body: (1) action with respect to such sale; and (2) a list of those not listing land for taxes whose taxes remain unpaid, making oath that he has made diligent effort to collect such taxes out of the personal property of such taxpayers or by other means open to him for collection of such taxes, and reporting such other information as to such taxpayers as may be of interest to or required by the governing body (including a report on his efforts to make collection outside the taxing unit under the provisions of this article).

Preliminary report.

(2) Insolvents. The governing body shall, upon receipt of said report, enter upon its minutes the list of such taxpayers listing no land as may be found by said governing body to be insolvents, and shall by resolution designate said list so entered in the minutes as the insolvent list to be credited to the collector in his settlement.

Insolvent list.

(3) Settlement for current taxes. On the first Monday of the month following sale of certificates, but not earlier than the first Monday, of July, the collector shall make full settlement with the governing body of the taxing unit for all taxes, in his hands for collection, for the year involved in said sale. In such settlement the collector shall be charged with: (1) the total amount of all taxes for said year, in his hands for collection, including amounts originally charged to him and all subsequent amounts charged on account of discovered property; (2) all penalties, interest and costs collected by him in connection with taxes for said year; and (3) all other sums to be collected by said collector. He shall be credited with: (1) all sums deposited by him to the credit of the taxing unit, or receipted for by the proper official of said unit, on account of taxes for said year; (2) releases allowed by the governing body as prescribed by

Settlement for current taxes.

Items chargeable against collector.

Credits to collector.

statute; (3) the principal amount of taxes included in certificates sold to the taxing unit, for which he shall produce certificates duly executed or receipts or accounts duly stamped in accordance with the provisions of this article; (4) the principal amount of taxes for said year included in the insolvent list, determined as hereinbefore provided; (5) discounts allowed by law; and (6) commissions, if any, lawfully payable to him as compensation. For any deficiency the collector shall be liable on his bond and, in addition, thereto, shall be liable to all criminal penalties provided by law.

Entry upon minutes of governing body.

Said settlement, together with the action of the governing body with respect thereto, shall be entered in full upon the minutes of said governing body.

Disposition of tax books after settlement.

(4) Disposition of tax books after settlement. Uncollected taxes allowed as credits in the settlement prescribed in the preceding subsection, whether represented by sales to the taxing unit or included in the list of insolvents, shall be recharged to the collector or charged to some other person, in accordance with the provisions of any valid local statute governing tax collection in the particular taxing unit. In the absence of any local statute determining the matter: (1) Such taxes in cities, and in counties having tax collectors other than Sheriffs, shall be recharged to the collector; and (2) such taxes, in counties having Sheriffs as tax collectors, shall be charged to such other county officer or employee as the governing body may designate to perform the duties of delinquent tax collector.

Recharging of uncollected taxes.

Bond of official charged with collection.

The person so charged or recharged shall give bond satisfactory to the governing body; shall receive the tax receipts, certificates and records representing such uncollected taxes; shall have and exercise and perform all powers and duties conferred or imposed by law upon tax collectors; and shall receive such compensation as may be fixed by valid local statute or, in the absence of such statute, as the governing body may determine.

Annual settlements for delinquent taxes.

(b) Settlements for delinquent taxes. Annually, at the time prescribed for the settlement hereinbefore in this section provided, all persons having in their hands for collection any taxes for years prior to the year involved in said settlement hereinbefore provided, shall settle with the governing body of the taxing unit for collections made on the taxes for each such prior year. Such settlement for the taxes of prior years shall be in such form as may be satisfactory to the chief accounting officer and the governing body of the taxing unit, and shall be entered in full upon the minutes of the governing body.

Settlement at end of term.

(c) Settlement at end of term. Whenever any tax collector or other person collecting taxes, current or delinquent, shall fail to succeed himself at the end of his term of office, he shall, on the last business day of his term, make full and complete settlement for all taxes in his hands and deliver the tax records, receipts

and accounts to his successor in office. Such settlement shall be in such manner and form as may be satisfactory to the chief accounting officer and governing body of the taxing unit, and shall be entered in full upon the minutes of the governing body.

Settlement upon vacancy during term.

(d) Settlement upon vacancy during term. In case of voluntary resignation of any person collecting taxes he shall, upon his last day in office, make full settlement for all taxes in his hands in the same manner as required herein for settlements made at the end of a term of office. In default of such settlement, or in case of a vacancy occurring during a term for any other reason, it shall be the duty of the chief accounting officer or, in the discretion of the governing body, of some duly qualified person appointed by it, immediately to prepare and submit to the governing body a report in the nature of a settlement made on behalf of the ex-collector; and such report, together with the action of the governing body, shall be entered in full upon the minutes of the governing body. In such cases the governing body may turn over the tax books to the successor collector immediately upon occurrence of the vacancy, or may make such temporary arrangements for collection of taxes as may be expedient: *Provided*, that no person shall be permitted to collect taxes until he shall have given bond satisfactory to the governing body.

Reports to governing body, and action on report.

Effect of approval and settlement.

(e) Effect of approval. Approval of any settlement by the governing body shall not relieve the collector or his bondsmen of liability for any shortage actually existing and thereafter discovered; nor shall it relieve the collector of any criminal liability.

Penalties.

(f) Penalties. In addition to all other civil and criminal penalties, provided by law, any member of a governing body, collector, person collecting taxes, or chief accounting officer failing to perform any duty imposed upon him by this section shall be guilty of a misdemeanor, punishable by fine or imprisonment, or both, in the discretion of the court.

Foreclosure of Tax liens.

SEC. 1719. *Foreclosure of tax liens by action in nature of action to foreclose a mortgage.*

Time for beginning actions.

(a) Time for beginning such action. Actions for the foreclosure of tax liens brought under this section shall be brought not less than six months after the sale hereinbefore provided for.

Foreclosure as sole remedy to private purchasers.

(b) Private purchasers. Foreclosure under this section shall be the sole remedy of certificate owners other than taxing units.

Foreclosure actions by taxing units.

(c) Taxing units. Taxing units may proceed under this section, either on the original tax lien or the lien acquired at the tax sale hereinbefore provided for, with or without a certificate of sale, and the amount of recovery in either case shall be the same. To this end it is hereby declared that the original attachment of the tax lien is sufficient to support a tax foreclosure

action by a taxing unit, that the issuance of tax sale certificates to a taxing unit is a matter of convenience in record keeping, within the discretion of the governing body of such unit, and that issuance of such certificates is not a prerequisite to perfection of said tax lien.

General nature of foreclosure actions.

(d) General nature of the action. The foreclosure action shall be an action in Superior Court, in the county in which the land is situated, in the nature of an action to foreclose a mortgage.

Necessary parties to foreclosure actions.

(e) Parties. The listing taxpayer and spouse, if any, the current owner, all other taxing units having tax liens, all other lien-holders of record, and all persons who would be entitled to be made parties to a court action (in which no deficiency judgment is sought) to foreclose a mortgage on such property, shall be made parties and served with summons in the manner provided by Section four hundred seventy-six of the Consolidated Statutes of North Carolina, Volume III, as amended by Senate Bill forty-six of the one thousand nine hundred thirty-nine General Assembly, ratified February second, one thousand nine hundred thirty-nine: *Provided,* that alias summons may be issued or service by publication begun at any time within one year after the issuance of the original summons.

Service of summons.

Alias summons; service by publication.

Minor and incompetent defendants.

The fact that the listing taxpayer or any other defendant is a minor, is incompetent or is under any other disability shall not prevent or delay the collector's sale or the foreclosure of the tax lien; and all such defendants shall be made defendants and served with summons in the same manner as in other civil actions.

Persons unknown, their heirs or assigned served by publication.

Persons who have disappeared or cannot be located and persons whose names and whereabouts are unknown, and all possible heirs or assignees of such persons may be served by publication; and such persons, their heirs and assignees may be designated by general description or by fictitious names in such action. It is hereby declared that service of summons by publication against such persons, in the manner provided by law, shall be as valid in all respects as such service against known persons who are non-residents of this State.

Complaint serves as lis pendens.

(f) Complaint as a lis pendens. The complaint in an action brought under this section shall, from the time of the filing thereof in the office of the Clerk of Superior Court, serve as notice of the pendency of such action, and every person whose interest in such property is subsequently acquired or whose interest therein is subsequently registered or recorded shall be bound by all proceedings taken in such action after the filing of said complaint in the same manner as if said persons had been made parties to such action. It shall not be necessary to have said complaint cross indexed as a notice of action pending to have the effect prescribed by this subsection.

(g) Subsequent taxes. The complaint in a tax foreclosure action brought under this section by a taxing unit shall, in addition to alleging the tax lien on which the action is based, include a general allegation of subsequent taxes which are or may become a lien on the same property in favor of the plaintiff unit. Thereafter it shall not be necessary to amend said complaint to incorporate said taxes by specific allegation. In case of redemption before judgment of confirmation, the person redeeming shall be required to pay, before said action is discontinued, at least all taxes on said property which have at the time of discontinuance been due to plaintiff unit for more than one year, plus interest, penalties and costs thereon. Immediately prior to judgment of sale in such action, if there has been no redemption, the tax collector, or the attorney for plaintiff unit, shall file in said action a certificate setting forth all taxes which are a lien on said property in favor of the plaintiff unit, other than taxes the amount of which has not been definitely determined.

Allegations of subsequent taxes as part of complaint.

Redemption prior to judgment.

Tax certificate filed in action.

Any plaintiff in a tax foreclosure action, other than a taxing unit, may include in his complaint, originally or by amendment, all other taxes and assessments paid by him which were liens on the same property.

(h) Joinder of parcels. All real estate within one township, subject to liens for taxes levied against the same taxpayer by the same taxing unit for the first year involved in the action, shall be joined in one action: *Provided,* that where property is transferred by the listing taxpayer subsequent to such year, all subsequent taxes, penalties, interest and costs, for which said property is ordered sold under the terms of this Act, shall be prorated to such property in the same manner as if payments were being made to release such property under the provisions of this Act.

Joinder of parcels

(i) Special benefit assessments. A cause of action for the foreclosure of the lien of any special benefit assessment may be included in any complaint filed under this section.

Special benefit assessments included in action.

(j) Joint foreclosure by two or more taxing units. Liens of different taxing units on the same parcel, representing taxes in the hands of the same collector, shall be foreclosed in one action. Liens of different taxing units of the same parcel, representing taxes in the hands of different collectors, may be foreclosed in one action in the discretion of the governing bodies.

Joint foreclosure by two or more taxing units.

Liens of taxing units made parties defendant in any such action shall be alleged in an answer filed by such unit, and the collector of each such answering unit shall, prior to judgment, file a certificate of subsequent taxes similar to that filed by the collector of the plaintiff unit, and the taxes of each such answering unit shall be of equal dignity with the taxes of the plaintiff unit; and any such answering unit may, in case of payment of the plaintiff's taxes, continue such action until all taxes due to

Filing of certificates.

it for more than one year have been paid. It shall not be necessary for any such defendant unit to file a separate foreclosure action or proceed under Section one thousand seven hundred twenty of this Act with respect to any such taxes.

Failure to file answer and file certificate.

All taxes of any taxing unit which is properly served as a party defendant in such action, and which does not answer and file the certificate as aforesaid, shall be barred by the judgment of sale except to the extent that the purchase price at foreclosure sale, after payment of costs and of the liens of all taxing units whose liens are properly alleged by complaint or answer and certificates, may be sufficient to pay said taxes: *Provided,* that if a defendant unit is plaintiff in another action pending against the same property, or has begun a proceeding under Section one thousand seven hundred twenty hereof, its answers may allege said fact in lieu of alleging its liens, and the court, in its discretion, may order consolidation of such actions or such other disposition thereof, and such disposition of the costs therein, as it may deem advisable: and *Provided, further,* that any such order may be made by the Clerk of the Superior Court, subject to appeal in the same manner as appeals are taken from other orders of said clerk.

Consolidation of actions.

Costs taxed as in other civil actions.

(k) Costs. Costs may be taxed in any action brought under this section in the same manner as in other civil actions, subject to the provisions of this subsection; and upon collection of said costs, either upon redemption or upon payment of the purchase price at foreclosure sale, the fees allowed officers shall be paid to those entitled to receive the same: *Provided,* that the fees allowed any officer, whether for the personal use of such officer or for the benefit of the unit of which he is an official shall not exceed one-half the fees allowed in other civil actions: *Provided, further,* that no process tax for the use of the State shall be levied or collected in tax foreclosure actions, and, where the plaintiff is a taxing unit, no prosecution bond shall be required in such actions.

Limitation on fee allowances.

Attorney's fee, as part of cost.

Said costs may include one reasonable attorney's fee for the plaintiff, which shall not exceed five dollars: *Provided,* that the governing body of any unit may, in its discretion, pay a greater sum to its attorney as a suit fee and said governing body may, in its discretion, allow a reasonable commission to its attorney on delinquent taxes collected by him after said taxes have been placed in his hands; or said governing body may arrange with its attorney for the handling of tax suits on a salary basis or make such other reasonable agreement with its attorney or attorneys as said governing body may approve; and any arrangement made may provide that attorney's fees collected as costs be collected for the use of the taxing unit: and *Provided, further,* that when any taxing unit is made a party defendant in a tax foreclosure action and files answer therein, there may be in-

Commissions to attorneys.

Salary basis.

Fee where unit is party defendant.

cluded in the costs an attorney's fee for said defendant not exceeding three dollars.

Commissioner's fee as part of cost.

In any action in which real property is actually sold after judgment, costs shall include a commissioner's fee to be fixed by the court, not exceeding five per centum of the purchase price; and in case of redemption between the date of sale and judgment of confirmation, said fee shall be added to the amount otherwise necessary for redemption. In case more than one sale is made of the same property in any action, the commissioner's fee may be based on the highest amount bid, but said commissioner shall not be allowed a separate fee for each such sale. The governing body of any plaintiff unit may request the court to appoint as commissioner a salaried official, attorney or employee of the unit and, if such appointment is made, may require that such commissioner's fees, when collected, be paid to plaintiff unit for use as it may direct.

Service of official of unit or Commissioner.

Preference over other civil actions.

(l) Contested actions. Any action brought under this section, in which an answer raising an issue requiring trial is filed within the time allowed by law, shall be entitled to a preference as to time of trial over all other civil actions.

Judgment of sale.

(m) Judgment of sale. Any judgment in favor of the plaintiff or any defendant taxing unit in an action brought under this section shall order the sale of the property, or so much thereof as may be necessary for the satisfaction of: (1) taxes adjudged to be liens in favor of the plaintiff, other than taxes the amount of which has not been definitely determined, together with interest, penalties and costs thereon; and (2) taxes adjudged to be liens in favor of other taxing units, other than taxes the amount of which has not yet been definitely determined, if said taxes have been alleged in answers filed by said units, together with interest, penalties and costs thereon.

Order of appointment of Commissioner and order of sale.

Said judgment shall appoint a commissioner to conduct said sale and shall order that the property be sold in fee simple, free and clear of all interests, rights, claims and liens whatever, except that said sale shall be subject to taxes the amount of which cannot be definitely determined at the time of said judgment, subject to taxes and assessments of taxing units which are not parties to said action, and, in the discretion of the court, subject to taxes alleged in other tax foreclosure actions or proceedings pending against the same property.

Default judgments by Clerk of Superior Court.

In all cases in which no answer is filed within the time allowed by law, and in cases in which answers filed to not seek to prevent sale of said property, the Clerk of the Superior Court may render said judgment, subject to appeal in the same manner as appeals are taken from other judgments of said clerk.

Advertisement of sale.

(n) Advertisement of sale. The sale shall be advertised, and all necessary resales shall be advertised, in the manner provided

by Chapter forty-four of the Public Laws of one thousand nine hundred twenty-nine, as amended by Chapter ninety-six of the Public Laws of one thousand nine hundred thirty-three, which said chapter, as so amended, is Section six hundred eighty-seven (a) and (b) of the Consolidated Statutes of North Carolina, or by such statute as may be enacted in substitution therefor.

Place, terms, etc. of sale.

(o) Sale. The sale shall be by public auction to the highest bidder, and shall, in accordance with the judgment, be held at the courthouse door on any day of the week except a Sunday or legal holiday: *Provided,* that in actions brought by any city which is not a county seat the court may, in its discretion, direct said sale to be held at the city hall door. The commissioner conducting such sale may, in his discretion, require from any successful bidder a deposit equal to not more than twenty per centum of his bid, which said deposit, in the event that said bidder refuses to take title and a resale becomes necessary, shall be applied to pay the costs of sale and any loss resulting: *Provided,* that this shall not deprive the commissioner of the right to sue for specific performance of the contract.

Deposit required at discretion of Commissioner.

Report of sale.

(p) Report of sale. Within three days following said sale the commissioner shall report said sale to the court, giving full particulars thereof.

Filing of exceptions or raise in bid.

(q) Exceptions and increased bids. At any time within twenty days after the filing of said report of sale any person having an interest in the property may file exceptions to said report, and at any time within said period an increased bid may be filed in the amount specified by and subject to the provisions (other than provisions in conflict herewith) of Section two thousand five hundred ninety-one of the Consolidated Statutes of North Carolina, as amended, or to the provisions (other than provisions in conflict herewith) of any law enacted in substitution for said section.

Judgment of confirmation.

(r) Judgment of confirmation. At any time after the expiration of said twenty days, if no exception or increased bid has been filed, the commissioner may apply for judgment of confirmation; and in like manner he may apply for such judgment after the court has passed upon any exceptions filed, or after any necessary resales have been held and reported and twenty days have elapsed: *Provided,* that the court may, in its discretion, order resale of the property, in the absence of exceptions or increased bids, whenever it deems such resale necessary for the best interests of the parties.

Resale in discretion of court.

Said judgment of confirmation shall direct the commissioner to deliver the deed upon payment of the purchase price.

Said judgment may be rendered by the Clerk of Superior Court, subject to appeal in the same manner as appeals are taken from other judgments of said clerk.

(s) Application of proceeds of sale; final commissioner's report. After delivery of the deed and collection of the purchase price, the commissioner shall apply the proceeds as follows; first, to payment of all costs of the action, including commissioner's fee and attorney's fee, which said costs shall be paid to the officials or funds entitled thereto; then to the payment of taxes, penalties and interest for which said property was ordered to be sold, and in case the funds remaining are insufficient for this purpose they shall be distributed pro rata to the various taxing units for whose taxes the property was ordered sold; then pro rata to the payment of any special benefit assessments for which said property was ordered sold, together with interest and costs thereon; then pro rata to payment of taxes, penalties, interest and costs of taxing units which were parties to said action but which filed no answers therein; then pro rata to payment of special benefit assessments of taxing units which were parties to said action but which filed no answers therein, together with interest and costs on said assessments; and any balance then remaining shall be paid in accordance with any directions given by the court and, in the absence of such directions, shall be paid into court for the benefit of the persons entitled thereto. The commissioner in all such cases shall make a full report to the court, within five days after delivery of the deed, showing delivery of the deed, receipt of the purchase price, and the disbursement of the proceeds, accompanied by receipts evidencing all such disbursements.

Application of proceeds of sale.

Final report by Commissioner.

In case the purchaser is a taxing unit such unit may proceed in accordance with the provisions hereinafter set forth in this section; and the commissioner shall make report accordingly.

(t) Bids by taxing units. Any taxing unit, or two or more units jointly, may bid at foreclosure sale, and any taxing unit which becomes the successful bidder may assign its bid, or portion thereof, at any time, by private sale, for not less than the amount thereof.

Bids by taxing units at foreclosure sales.

(u) Payment of purchase price by taxing units; status of property purchased by taxing units. Any taxing unit which becomes the purchaser at final tax foreclosure sale may, in the discretion of its governing body, pay only such part of the purchase price as would not be distributed to itself and other taxing units on account of taxes, interest, penalties and such costs as accrued prior to the beginning of the foreclosure action. Thereafter, in such case, it shall hold said property for the benefit of all taxing units which have an interest in such property as hereinafter in this subsection defined. All net income from said property and the proceeds thereof, when resold, shall be first used to reimburse the purchasing unit for disbursements actually made by it in connection with the foreclosure action and the purchase of said property, and any balance remaining shall be distributed to the taxing units having an interest therein in

Payment of purchase price by taxing units.

Status of property purchased by taxing units.

Use of income.

Determination of interest of different taxing units.

proportion to their interests. The total interest of each taxing unit, including the purchasing unit, shall be determined by adding: (1) taxes of such unit, with interest, penalties and costs (other than costs already reimbursed to the purchasing unit), to satisfy which said property was ordered sold; (2) other taxes of such unit, with interest, penalties and costs, which would have been paid from the purchase price had said purchase price been paid in full; (3) taxes of such unit, with interest, penalties and costs, to which said sale was made subject; and (4) the principal amount of all taxes which may become liens on said property after purchase at foreclosure sale or which would have become liens but for such purchase: *Provided,* that no amount shall be included under clause (4) hereof for taxes for years in which, on the tax listing day, said property is being used by said purchasing unit for a public purpose.

Distribution of surplus, if any.

If the amount of net income and proceeds of resale distributable exceeds the total interests of all units as hereinbefore defined, the remainder shall be applied to any special benefit assessments to satisfy which said sale was ordered or to which said sale was made subject, and any balance than remaining shall accrue to the purchasing unit.

Property dedicated for public purpose, settlement of proportionate interest of different units.

When any property, purchased as hereinbefore provided in this subsection, is permanently dedicated for use for a public purpose, the purchasing unit shall make settlement with other taxing units having an interest in such property, as hereinbefore defined, in such manner and in such amount as may be agreed upon by the governing bodies; and if no agreement can be reached the amount to be paid shall be determined by the resident judge of the Superior Court.

Construction of section.

Nothing in this subsection shall be construed as requiring the purchasing unit to secure the approval of other interested taxing units before reselling said property or as requiring said purchasing unit to pay said other units in full if the net income and resale price are insufficient to make such payments.

Retention of property by units, and payment of purchase price.

Any taxing unit purchasing property at foreclosure sale may, in the discretion of its governing body, instead of following the foregoing provisions of this subsection, make full payment of the purchase price and thereafter it shall hold said property as sole owner in the same manner as it holds other real property, subject only to taxes and assessments, with interest, penalties and costs, to which said sale was made subject.

Resale of property purchased by taxing units.

(v) Resale of property purchased by taxing units. Property purchased at tax foreclosure sale by a taxing unit may be resold at any time for such price as the governing body may approve. Such resales shall be conducted in the manner provided by law for sales of other property of the various taxing units: *Provided,* that a city may, in the discretion of its governing body, resell such property to former owner or other person formerly having

an interest in said property, at private sale, for an amount not less than its interest therein, if it holds said property as sole owner, or for an amount not less than the total interests of all taxing units (other than assessments due the city holding title), if it holds said property for the benefit of all such units. Private sales to former owners.

SEC. 1720. *Alternative method of foreclosure.* (a) Docketing taxes as a judgment. In lieu of following the procedure set forth in Section one thousand seven hundred nineteen of this Act, the governing body of any taxing unit may order the collecting official to file, not less than six months or more than two years (four years as to taxes of the principal amount of five dollars or less) following the collector's sale of certificates, with the Clerk of Superior Court a certificate showing the name of the taxpayer listing the real estate on which such taxes are a lien, together with the amount of taxes, interest, penalties and costs which are a lien thereon, the year for which such taxes are due, and a description of such real property sufficient to permit its identification by parol testimony. The Clerk of Superior Court shall enter said certificate in a special book entitled "Tax Judgment Docket for Taxes for the Year....." and shall index the same therein in the name of the listing taxpayer. Immediately upon said docketing and indexing, said taxes, interest, penalties and costs shall constitute a valid judgment against said property, with the priority hereinbefore provided for tax liens, which said judgment, except as herein expressly provided, shall have the same force and effect as a duly rendered judgment of the Superior Court directing sale of said property for the satisfaction of the tax lien, and which judgment shall bear interest at the rate of six per cent per annum. The clerk shall be allowed fifty cents per certificate for such docketing and indexing, payable when such taxes are collected or such property is sold, and shall account for said fees in the same manner as other fees of his office are accounted for: *Provided*, that the governing body of any county, if said clerk is on salary, or said clerk, if he is on fees or salary plus fees, may require such fees to be advanced by the taxing unit. Alternative method of foreclosure. Docketing tax certificate as judgment. "Tax Judgment Docket—" Priority of tax judgments. Fee to Clerk for docketing.

The collecting official filing said certificate shall, at least two weeks prior to the docketing of said judgment, send a registered letter to the listing taxpayer, at his last known address, stating that the judgment will be docketed and that execution will issue thereon in the manner provided by law. However, receipt of said letter by said listing taxpayer, or receipt of actual notice of the proceeding by said taxpayer or any other interested person, shall not be required for the validity or priority of said judgment or for the validity or priority, as hereinafter provided, of the title acquired by the purchaser at the execution sale. It is hereby expressly declared to be the intention of this section that proceedings brought under it shall be strictly in rem. It is further declared to be the intention of the section to provide a simple and inexpensive method of enforcing payment of taxes neces- Notice by registered letter to owner of property. Proceedings in rem.

Purpose of section.

sarily levied, to the knowledge of all, for the requirements of local governments in this State; and to recognize, in authorizing such proceeding, that all those owning interests in real property know, or should know, without special notice thereof, that such property may be seized and sold for failure to pay such lawful taxes.

Nothing in this section shall be construed as a limitation of time on the right to foreclose a tax lien under Section one thousand seven hundred nineteen of this article.

Motions to set judgment aside.

(b) Motion to set aside. At any time prior to issue of execution, any person having an interest in said property may appear and move to set aside said judgment on the ground that the tax has been paid or that the tax lien on which said judgment is based is invalid.

Issue of execution after 6 months.

(c) Issue of execution. At any time after six months and before two years from the indexing of said judgment, execution shall be issued at the request of the governing body of the taxing unit, in the same manner as executions are issued upon other judgments of the Superior Court, and said property shall be sold by the Sheriff in the same manner as other property is sold under execution: *Provided,* that no debtor's exemption shall be allowed; and *provided, further,* that in lieu of any personal service of notice on the owner of said property, registered mail notice shall be mailed to the listing taxpayer, at his last known address, at least one week prior to the day fixed for said sale. The purchaser at said sale shall acquire title to said property in fee simple, free and clear of all claims, rights, interests and liens except the lien of other taxes and assessments not paid from the purchase price and not included in the judgment: *Provided,* that if a taxing unit has, by virtue of the taxes included in such a judgment, been made a defendant in a foreclosure action brought under Section one thousand seven hundred nineteen hereof, it shall file answer therein and thereafter all proceedings shall be governed by order of court in accordance with the provisions of that section.

Sale by sheriff under execution.

No exemptions allowed.

Notice by registered mail.

Fee simple title to purchaser at sale.

Procedure when taxing unit made party defendant.

Cancellation of judgment upon payment.

(d) Cancellation upon payment. Upon payment in full of any judgment docketed under this section, together with interest thereon and costs accrued to the date of payment, it shall be the duty of the collecting official receiving such payment immediately to certify the fact of such payment to the Clerk of Superior Court, who shall thereupon cancel the judgment, the fee for such cancellation to be fifty cents (50c), which fee shall be included as part of accrued costs.

Cancellation fee.

Consolidation of liens by agreement of governing bodies.

(e) Consolidation of liens. By agreement between the governing bodies, two or more taxing units may consolidate their liens for purposes of docketing judgment, or may have one execution issued for separate judgments, against the same property. In

like manner one execution may issue for separate judgments in favor of one or more taxing units against the same property for different years' taxes.

Combinations of advertisements and notices.

In any advertisement or posted notice of sale under execution the Sheriff may (and, at the request of the governing body of the taxing unit, shall) combine the advertisements or notices for properties to be sold under executions, against the properties of different taxpayers, in favor of the same taxing unit or group of units: *Provided*, that the property included in each judgment shall be separately described and the name of the listing taxpayer specified in connection with each.

Special assessments.

(f) Special Assessments. Street, sidewalk and other special assessments may be included in any judgment for taxes taken under this section; or such assessments may be included in a separate judgment docketed under this section, which is hereby declared to be made available as a method of foreclosing the lien of such assessments.

Purchase, assignment and resale by taxing units.

(g) Purchase and resale by taxing unit. Any taxing unit may become a bidder at said sale under execution, and may assign its bid by private sale, for not less than the amount of such bid. Property purchased by any taxing unit may be resold at any time in the manner provided by law for sale of other property of such unit: *Provided*, a city may resell property to the former owner or other person formerly having an interest therein, at private sale, for not less than the amount of said unit's interest in such property (other than special assessments).

Procedure in event of invalidation of section.

(h) Procedure if section declared unconstitutional. If any provisions of this section are declared invalid or unconstitutional by a court of competent jurisdiction, all taxing units which have proceeded under this section shall have one year from the date of the filing of such opinion (or, in case of appeal, from the date of the filing of the opinion on appeal) in which to institute foreclosure actions under Section one thousand seven hundred nineteen of this Act for all taxes included in judgments taken under this section and for subsequent taxes due or which, but for purchase of such property by the taxing unit, would have become due; and such opinion shall not have the effect of invalidating the tax lien or disturbing the priority thereof.

One year limitation on actions contesting validity of foreclosure titles.

SEC. 1721. *Time for contesting validity of tax foreclosure titles.* No action or proceeding shall be brought to contest the validity of any title to real property acquired, by a taxing unit or by a private purchaser, in any tax foreclosure action or proceeding authorized by this Act or by other laws of this State in force at the time of acquisition of said title, nor shall any motion to reopen or set aside the judgment in any such tax foreclosure action or proceeding be entertained, after one year from the date on which the deed is recorded: *Provided*, that in cases of

deeds recorded prior to ratification of this Act, such action or proceeding may be brought or motion entertained within one year after said ratification: *Provided, further,* that this shall not be construed as enlarging the time within which to bring such action or proceeding or entertain such motion.

Facsimile signatures of officials.

SEC. 1722. *Facsimile signatures.* In the institution or prosecution of any suits or other proceedings under this Act, or in tax foreclosure proceedings under laws heretofore or hereafter in force, and in the giving of any notice preliminary to the institution thereof, it shall be sufficient and a compliance with the law that where any official or attorney required to sign summons, complaints, verifications of pleadings, notices, judgments or other papers, the name of said official or attorney may be affixed to said documents by stamping thereon the facsimile of the signature of said official or attorney with a rubber stamp by any person authorized by said official or attorney so to do; and said documents so stamped shall have the same legal force and effect as if said signature had been written by said official or attorney with his own hand, and all such signatures stamped as aforesaid shall be conclusively presumed to have been so stamped at the direction of the official or attorney whose signature it purports to be.

Construction and application of Act.

SEC. 1723. *Application of Act.* All provisions of this article shall apply to all taxes originally due within fiscal years beginning on or after July first, one thousand nine hundred thirty-nine. With the exception of the provisions of Sections one thousand seven hundred six, one thousand seven hundred seven, and one thousand seven hundred eight, the provisions of this article shall also apply to all taxes uncollected at the time of ratification of this article, originally due within the fiscal year beginning July first, one thousand nine hundred thirty-eight. Sections one thousand seven hundred one, one thousand seven hundred two, one thousand seven hundred three, one thousand seven hundred four, one thousand seven hundred five, one thousand seven hundred nine, one thousand seven hundred ten, one thousand seven hundred eleven, one thousand seven hundred twelve, one thousand seven hundred thirteen, one thousand seven hundred fourteen, one thousand seven hundred eighteen, one thousand seven hundred twenty-one, and one thousand seven hundred twenty-two, and Subsections (k) to (v), inclusive, of Section one thousand seven hundred nineteen, of this article shall also apply, to the extent that such application does not affect any action already taken or affect private rights already vested at the time of ratification of this article, to all taxes, due and owing to taxing units at the time of the ratification of this article, originally due within fiscal years beginning on or before July first, one thousand nine hundred thirty-seven, whether such taxes have heretofore been included in tax sales certificates or not, and whether such taxes are included in pending foreclosure actions or not; and

Section one thousand seven hundred twenty, and Subsections (a) to (j), inclusive, of Section one thousand seven hundred nineteen of this article shall also apply to all taxes, due and owing to taxing units at the time of ratification of this article, originally due within fiscal years beginning on or before July first, one thousand nine hundred thirty-seven, which have not been included in any tax foreclosure proceedings pending or completed at the time of the ratification of this article: *Provided*, that with respect to such taxes originally due within the fiscal years beginning on or before July first, one thousand nine hundred thirty-seven, the provisions of said Section one thousand seven hundred twenty, and Subsections (a) to (j), inclusive, of Section one thousand seven hundred nineteen of this article shall be in addition to, and not in substitution for, the provisions of laws in force immediately prior to ratification of this article: *Provided, further*, that proceedings may be begun under the provisions of Sections one thousand seven hundred nineteen and one thousand seven hundred twenty of this article, with respect to such taxes originally due within the fiscal years beginning on or before July first, one thousand nine hundred thirty-seven, at any time after six months and within one year following the ratification of this article or within a longer period otherwise permitted by the terms of this article.

Collection and foreclosure of taxes due before 1938.

Except as in this section provided, the collection and foreclosure of taxes originally due within fiscal years beginning on or before July first, one thousand nine hundred thirty-eight, shall be under the provisions of laws in force immediately prior to the ratification of this article, including Section seven thousand nine hundred ninety of the Consolidated Statutes of North Carolina. In all actions which may be brought under the provisions of Section eight thousand thirty-seven of the Consolidated Statutes of North Carolina, the general advertisement, or six months' notice, prescribed by said section need not be made; and the failure to make such advertisement in any action heretofore brought under said section is hereby ratified, confirmed and approved, and, despite such failure, such action, with respect to defendants served with process in such action, either by personal service or service by publication, is hereby validated to the same extent as if said advertisement had been made.

C. S. 7990 preserved as alternative method, taxes prior to 1938.

Section seven thousand nine hundred ninety of the Consolidated Statutes of North Carolina is hereby preserved in full force and effect as an alternative method for the foreclosure of taxes originally due within fiscal years beginning on or after July first, one thousand nine hundred thirty-eight: *Provided*, that the provisions of Subsections (f) to (v), inclusive, of Section one thousand seven hundred nineteen of this article shall apply in any such foreclosure action brought under said Section seven thousand nine hundred ninety.

Further construction of section.

Nothing in this section or this article shall be construed to require foreclosure of any taxes under the provisions of Section one thousand seven hundred twenty, and Subsections (a) to (j), inclusive, of Section one thousand seven hundred nineteen of this article, if such taxes have been or by the terms of this section may be included in any action instituted under laws in force immediately prior to ratification of this article, whether such taxes be included in said action by the original complaint or by amendment thereto.

To the extent indicated in this section the laws in force immediately prior to ratification of this article are hereby preserved in full force and effect, any repeal clauses contained in this article or Act to the contrary notwithstanding.

Unconstitutionality or invalidity.

SEC. 1724. *Unconstitutionality or invalidity.* If any clause, sentence, paragraph, subsection, section or any part of this article shall, for any reason, be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such judgment shall not affect, impair, or invalidate the remainder of the article, but shall be confined in its operation to the part thereof directly involved in said judgment: *Provided*, that should any material provisions of Section one thousand seven hundred nineteen of this article be adjudged invalid or unconstitutional, all taxes which have theretofore been included in an action brought under said Section one thousand seven hundred nineteen may be foreclosed under Section seven thousand nine hundred ninety of the Consolidated Statutes of North Carolina.

Statutes and chapters repealed.

SEC. 1725. *Certain statutes repealed.* Sections seven thousand nine hundred eighty-four, seven thousand nine hundred eighty-six, seven thousand nine hundred eighty-seven, seven thousand nine hundred eighty-eight, seven thousand nine hundred ninety-one, seven thousand nine hundred ninety-two, seven thousand nine hundred ninety-four, seven thousand nine hundred ninety-six, seven thousand nine hundred ninety-seven, seven thousand nine hundred ninety-eight, seven thousand nine hundred ninety-nine, eight thousand, eight thousand one, eight thousand two, eight thousand three, eight thousand four, eight thousand five, eight thousand six, eight thousand seven, eight thousand eight, eight thousand nine, eight thousand ten, eight thousand eleven, eight thousand twelve, eight thousand fourteen, eight thousand fifteen, eight thousand sixteen, eight thousand seventeen, eight thousand eighteen, eight thousand nineteen, eight thousand twenty, eight thousand twenty-one, eight thousand twenty-two, eight thousand twenty-three, eight thousand twenty-four, eight thousand twenty-five, eight thousand twenty-six, eight thousand twenty-seven, eight thousand twenty-eight, eight thousand thirty-five, eight thousand thirty-six, eight thousand thirty-seven, eight thousand thirty-seven (a), eight thousand thirty-seven (b), eight thousand thirty-eight ,eight thousand thirty nine, eight

thousand forty, eight thousand forty-one, eight thousand forty-three, eight thousand forty-four, eight thousand forty-five, eight thousand forty-six, eight thousand forty-seven, eight thousand forty-eight, eight thousand forty-nine, eight thousand fifty, eight thousand fifty-one, eight thousand fifty-two, of the Consolidated Statutes of North Carolina, as amended, and Chapter two hundred twenty-one of the Public Laws of one thousand nine hundred twenty-seven, Chapter three hundred thirty-four of the Public Laws of one thousand nine hundred twenty-nine, Chapter two hundred four of the Public Laws of one thousand nine hundred twenty-nine, Chapter two hundred sixty of the Public Laws of one thousand nine hundred thirty-one, Chapter three hundred thirteen of the Public Laws of one thousand nine hundred thirty-five, Chapter three hundred six of the Public Laws of one thousand nine hundred twenty-nine, Chapter five hundred thirty-two of the Public Laws of one thousand nine hundred thirty-three, Chapter five hundred sixty of the Public Laws of one thousand nine hundred thirty-three, Chapter three hundred thirty of the Public Laws of one thousand nine hundred twenty-nine, Chapter eighty-three of the Public Laws of one thousand nine hundred thirty-one, Chapter three hundred twenty-one of the Public Laws of one thousand nine hundred thirty-five, Chapter four hundred two of the Public Laws of one thousand nine hundred thirty-one, Chapter one hundred twelve of the Public Laws of one thousand nine hundred thirty-five, Chapter one hundred fifty-one of the Public Laws of one thousand nine hundred thirty-one, Chapter two hundred thirteen of the Public Laws of one thousand nine hundred twenty-seven, Section two of Chapter four hundred twenty-eight of the Public Laws of one thousand nine hundred thirty-five, and that part of Section three of Chapter two hundred ninety-six of the Public Laws of one thousand nine hundred thirty-one which is designated as Section seventy-five-B of the Local Government Act, and all amendments to said chapters and sections, are hereby repealed, except as otherwise provided in Sections one thousand seven hundred twenty-three and one thousand seven hundred twenty-four of this article. All other laws and clauses of laws including any Public-Local or Private Laws in conflict with the provisions of this article are, to the extent of such conflict, hereby repealed: *Provided*, that nothing in this article shall repeal existing laws relative to tax foreclosures in Duplin County.

Duplin County.

ARTICLE XVIII

GENERAL PROVISIONS

General provisions.

SEC. 1800. *Foreign corporations not exempt.* Nothing in this Act shall be construed to exempt from taxation at the value prescribed by law any property situated in this State belonging to any foreign corporation, unless the context clearly indicates the intent to grant such exemption.

Foreign corporations not exempt.

Partial invalidity section.

SEC. 1801. *Unconstitutionality or invalidity.* If any clause, sentence, paragraph, subsection, section, or any part of this Act shall for any reason be adjudged by a court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph, subsection, section or part thereof directly involved in such judgment. No caption of any section or sections shall in any way affect the validity of this Act or any part thereof.

General purpose of Act.

SEC. 1802. *General purpose of Act.* It is the purpose of this Act except as otherwise herein provided to provide the machinery for the listing and valuing of property, and the levy and collection of taxes, for the year one thousand nine hundred thirty-nine, and annually thereafter, and to that end this Act shall be liberally construed, subject to the provisions set out in Article VIII, Schedule H, of the Revenue Act.

Inconsistent Acts repealed.

SEC. 1803. *Inconsistent acts repealed.* Chapter two hundred ninety-one, Public Laws of one thousand nine hundred and thirty-seven, and all Acts and parts of Acts inconsistent with the provisions of this Act are hereby repealed: *Provided,* that this shall not affect the validity of any tax levied under the terms of any such Act or Acts; nor shall it affect the validity of any action taken under the provisions of such Acts prior to the ratification of this Act: *Provided, further,* that none of the provisions contained in any of the sections or articles of this Act shall be construed to conflict with or to repeal any part of Article VIII, Schedule H, of the Revenue Act, but rather shall they be subordinate thereto: *Provided, further,* none of the provisions of this Act shall be so construed as to repeal Chapter two hundred seventy-three of the Public-Local Laws of nineteen hundred thirty-seven, creating a Board of Tax Supervision for Buncombe County, as amended, or Chapter one hundred ninety-one of the Public-Local Laws of nineteen hundred and thirty-three, establishing a City-County Tax Collector for Wilmington and New Hanover County.

Act subordinate to Art VIII, Schedule H, Revenue Act.

Exceptions.

Effective date.

SEC. 1804. *Effective date.* This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 4 **CHAPTER 311**

AN ACT TO AUTHORIZE AND DIRECT THE GOVERNOR TO APPOINT A COMMISSION TO STUDY AND TO DETERMINE THE ADVISABILITY AND FEASIBILITY OF ESTABLISHING A NAUTICAL SCHOOL IN THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Governor authorized to appoint commission to study advisability of establishing a nautical school in State.

SECTION 1. That within ninety days after the ratification of this Act the Governor shall appoint a commission consisting of not less than five nor more than seven members, the number of members to be within his discretion, two of such members shall be the Dean of Administration of the State College Unit of the University of North Carolina, and the Superintendent of Public Instruction of this State, to investigate the advisability and feasibility of establishing in the State of North Carolina a nautical school for the purpose of instructing the students in the science and practice of navigation, seamanship, steam and electrical engineering.

Commission to file report setting forth conclusions and recommendations, etc.

SEC. 2. That it shall be the duty of the said commission to file its report not later than July first, one thousand nine hundred forty, setting forth its conclusions and recommendations and accompanied by appropriate proposals for legislation to carry its said recommendations into effect, which report shall be transmitted by the Governor to the General Assembly.

Report transmitted to General Assembly.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 73 **CHAPTER 312**

AN ACT TO AMEND CHAPTER FOUR HUNDRED NINE OF THE PUBLIC LAWS OF NORTH CAROLINA OF NINETEEN HUNDRED THIRTY-SEVEN KNOWN AS THE MAXIMUM HOUR LAW AND SECTION SIX THOUSAND FIVE HUNDRED FIFTY-FOUR OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA, AS AMENDED, RELATIVE TO HOURS OF LABOR FOR EMPLOYEES OF RETAIL AND WHOLESALE FLORISTS.

The General Assembly of North Carolina do enact:

Ch. 409, Public Laws, 1937, Maximum Hour Law, amended.

SECTION 1. That Chapter four hundred nine of the Public Laws of North Carolina of nineteen hundred thirty-seven be,

and the same is hereby, amended by adding the following at the end of Section three of said chapter:

Florists and employees exempt from application of Act during certain designated periods.

"*Provided*, that this Act shall not apply to retail or wholesale florists nor to employees of retail or wholesale florists during the following periods of each year: one week prior to and including Easter, one week prior to and including Christmas, and one week prior to and including Mother's Day."

C. S. 6554, as to hours of employment of women, amended, to exempt florists and employees during certain designated periods.

SEC. 2. That Section six thousand five hundred fifty-four of the Consolidated Statutes of North Carolina, as amended, be, and the same is hereby, amended by adding the following at the end of said section:

"*Provided*, that this section shall not apply to retail or wholesale florists nor to employees of retail or wholesale florists during the following periods of each year: one week prior to and including Easter, one week prior to and including Christmas, and one week prior to and including Mother's Day."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 120 CHAPTER 313

AN ACT TO FURTHER THE PREVENTION OF SYPHILIS IN UNBORN CHILDREN IN NORTH CAROLINA BY REQUIRING BLOOD TEST EXAMINATION OF PROSPECTIVE MOTHERS.

The General Assembly of North Carolina do enact:

Wassermann test required of prospective mothers.

SECTION 1. That every woman who becomes pregnant shall have a blood sample taken and submitted to a laboratory approved by the North Carolina State Board of Health for performing the Wassermann test or other approved tests for syphilis.

Services of duly licensed physician upon request.

SEC. 2. That any duly licensed physician shall, upon the request of said woman, secure or cause to be secured a sample of blood and submit said sample to a laboratory approved by the State Board of Health for performing the Wassermann test or other approved tests for syphilis.

(a). Such persons as are permitted by law to attend a woman during the period of her gestation and at childbirth but not

permitted by law to take such blood samples shall, upon the request of said patient, refer such patient to a duly licensed physician who, in turn, shall take or cause to be taken such blood sample and submit same to a laboratory approved by the State Board of Health for performing the Wassermann test or other approved test for syphilis. Reference of cases to licensed physicians.

SEC. 3. Any woman who is pregnant and who is unable to pay a duly licensed physician to take a blood sample for testing, as is required in this Act, may have such blood sample secured by the local county health officer or county physician and submitted to a laboratory approved by the State Board of Health for performing the Wassermann test or other approved tests for syphilis. Services of health officer or county physician available to persons unable to employ physican.

SEC. 4. In reporting every birth and stillbirth, physicians and others permitted to attend pregnancy cases and required to report births and stillbirths shall, on and after January first, nineteen hundred and forty (January 1, 1940), state on the birth certificate or stillbirth certificate, as the case may be, whether a blood test for syphilis has been made during such pregnancy upon a specimen of blood taken from the woman who bore the child for which a birth or stillbirth certificate is filed. If such test has been made during pregnancy, those required to report births and stillbirths shall state the date on which the test was made. In addition to the usual information asked for on each certificate of birth, the Supplementary Confidential Medical Tab shall be filled out on each birth certificate. Every certificate of birth shall state whether a serological test for syphilis was made during pregnancy or at delivery. Birth certificates to contain information as to tests. Supplementary Confidential Medical Tab.

SEC. 5. This Act shall be in full force and effect on and after January first, nineteen hundred and forty (January 1, 1940). Effective date.

SEC. 6. Penalty for Violation. Any knowing and wilful violation of this Act, or any part thereof, by any physician, attending mid-wife, county health officer or county physician charged herein with the responsibility of its enforcement, shall be declared a misdemeanor and shall be punishable by a fine of twenty-five dollars ($25.00) or imprisonment for thirty days, or both, in the discretion of the court. Penalty for violation.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 121 **CHAPTER 314**

AN ACT TO REQUIRE PHYSICAL EXAMINATION BEFORE ISSUANCE OF LICENSE TO MARRY

The General Assembly of North Carolina do enact:

Requirements for issuance of marriage licenses.

SECTION 1. No license to marry shall be issued by the Register of Deeds of any county to a male or female applicant therefor except upon the following conditions: The said applicant shall present to the Register of Deeds a certificate executed within seven days from the date of presentation showing that, by the usual methods of examination made by a regularly licensed physician, no evidence of any venereal disease in the infectious or communicable stage was found. Such certificate shall be accompanied by the original report from a laboratory approved by the State Board of Health for making such tests showing that the Wassermann or any other approved test of this nature is negative, such tests to have been made within two weeks of the time application for license is made.

Certificate showing freedom from infectious venereal diseases.

Report from State Board of Health on Wassermann test.

Absence of tuberculosis in infectious stage.

Furthermore, such certificate shall state that, by the usual methods of examination made by a regularly licensed physician, no evidence of tuberculosis in the infectious or communicable stage was found.

Certification that applicant is not an imbecile or mental defective, etc.

And, furthermore, such certificate shall state that, by the usual methods of examination made by a regularly licensed physician, the applicant was found to be not subject to epileptic attacks, an idiot, an imbecile, a mental defective, or of unsound mind.

SEC. 2. Exceptions to the above section are permissible only under the conditions hereinafter named:

Exception as to syphilis patients receiving required treatment, upon agreement to complete same.

(a). When the medical history and physical examination of either applicant shows syphilis to be present, or when the laboratory test for syphilis is positive, and provided both applicants are informed that syphilitic infection is present, certificate may be issued and license granted only in the following instances: (1) When the applicant with syphilis has been under continuous weekly treatment with adequate dosage of standard arsenical and bismuth preparation given by a regularly licensed physician for a period of one year, and when such applicant also signs an agreement to continue such treatment until cured or probated. It is specified that the condition stipulated in subparagraph one above may be waived in instances in which the female applicant is pregnant and it is necessary to protect the legitimacy of the offspring. In such a case certificate may be granted and license issued provided the applicant with syphilis signs an agreement to take adequate,

Issuance upon agreement to complete treatment to protect legitimacy of offspring.

approved treatment until cured or probated. (2) When the female applicant is past the childbearing age, and provided the applicant with syphilis signs an agreement to take adequate treatment until cured or probated. Applicable when female past childbearing age.

SEC. 2½. Residents of the State who are married outside of North Carolina, shall, within sixty days after they return to said State, file with the Register of Deeds of the County in which they live, a certificate showing that they have conformed to the requirements of the examination required by this Act for those who are married in the State. Compliance with Act by residents who marry outside of State.

SEC. 3. If either applicant has been adjudged by a court of competent jurisdiction as being an idiot, imbecile, mental defective, subject to epileptic attacks, or of unsound mind, license to marry shall be granted only after eugenic sterilization has been performed on the applicant in accordance with State laws governing eugenic sterilization. Eugenic sterilization for persons adjudged of unsound mind, etc.

Such certificate, upon the basis of which license to marry is granted, shall be executed by any reputable physician licensed to practice in the State of North Carolina, whose duty it shall be to examine such applicants and to issue such certificate in conformity with the requirements of this Act. If applicants are unable to pay for such examination, certificate without charge may be obtained from the local health officer or county physician. Certificates to be executed by reputable licensed physician.

Such certificate form shall be designed by the State Board of Health and shall be obtained by the Register of Deeds from the State Board of Health upon request. Certificates furnished by State Board of Health.

That every examining physician under the provision of this law shall make and immediately file with the Department of Health of North Carolina a true copy of such certificate. Physicians required to file copies.

Penalty for violation. Any violation of this Act, or any part thereof, by any person charged herein with the responsibility of its enforcement shall be declared a misdemeanor and shall be punishable by a fine of fifty dollars ($50.00) or imprisonment for thirty days, or both. Violations made misdemeanor.

SEC. 4. *Provided* that this Act shall not apply to applicants for marriage license by nonresidents who are residents of a State or States which do not require the provisions of this law. Exemptions.

SEC. 5. If any clause, sentence, paragraph, or part of this Act shall for any reason be adjudged by any court or competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder of this Act, but shall be confined in its operation to the clause, sentence, paragraph or part thereof directly involved in the controversy in which Partial invalidity provision.

such judgment shall have been rendered. No caption of any section or set of sections shall in any way affect the interpretation of this Act or any part thereof.

SEC. 6. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Effective date.

SEC. 7. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 127 CHAPTER 315

AN ACT TO CREATE A STATE DEPARTMENT OF JUSTICE AND TO PRESCRIBE THE DUTIES OF THE SAME.

The General Assembly of North Carolina do enact:

Creation of Department of Justice under supervision of Attorney General.

SECTION 1. That there is hereby created a Department of Justice which shall be under the supervision and direction of the Attorney General, as authorized by Article III, Section eighteen, of the Constitution of North Carolina.

Division of Criminal and Civil Statistics.

SEC. 2. That the Attorney General shall set up in the Department of Justice a Division to be designated as the Division of Criminal and Civil Statistics. That there shall be assigned to this Division by the Attorney General duties as follows:

Functions.

Collection and correlation of information on criminal law administration.

(a) To collect and correlate information in criminal law administration, including crimes committed, arrests made, dispositions on preliminary hearings, prosecutions, convictions, acquittals, punishment, appeals, together with the age, race, and sex of the offender, and such other information concerning crime and criminals as may appear significant or helpful. To correlate such information with the operations of agencies and institutions charged with the supervision of offenders on probation, in penal and correctional institutions, on parole and pardon, so as to show the volume, variety and tendencies of crime and criminals and the workings of successive links in the machinery set up for the administration of the criminal law in connection with the arrests, trial, punishment, probation, prison parole and pardon of all criminals in North Carolina.

Method of correlation.

Collection and correlation of information on operation of various civil courts.

(b) To collect and correlate similar information on the operations of the various courts of the State engaged in civil law administration so as to show the volume of civil litigation, including quasi judicial proceedings before all of the commissions set up under the laws of this State, such information to provide a geographical distribution, the condition of the dockets in the several courts and counties, and such other information as may appear significant and helpful.

(c) To make scientific study, analysis and comparison from the information so collected and correlated with similar information gathered by federal agencies, and to provide the Governor and the General Assembly with the information so collected biennially, or more often if required by the Governor.

Analysis and comparison of collected information with similar information of Federal agencies.

(d) To perform all the duties heretofore imposed by law upon the Attorney General with respect to criminal statistics and all similar duties imposed upon the Bureau of Identification and Investigation created under the authority of Chapter three hundred forty-nine of the Public Laws of one thousand nine hundred thirty-seven.

Assumption of criminal statistcs duties of Attorney General and Bureau of Identification and Investigation.

(e) To perform such other duties as may be from time to time prescribed by the Attorney General.

Other duties.

SEC. 3. That the said Division of Criminal and Civil statistics shall be set up by the Attorney General on July first, one thousand nine hundred thirty-nine, and at said time all of the duties now prescribed by law to be performed by the Bureau of Identification and Investigation established by Chapter three hundred forty-nine of the Public Laws of one thousand nine hundred thirty-seven, shall be transferred to the Department of Justice, and at the same time all of the equipment, statistical data, books, records, papers, furniture, supplies, materials and funds available for expenditure by the Bureau of Identification and Investigation shall be transferred to the Department of Justice, to be used and employed in the performance of the functions of said department. That all appropriations made available for expenditure by the Bureau of Identification and Investigation by laws heretofore enacted or enacted at the present session of the General Assembly, shall on July first, one thousand nine hundred thirty-nine, be transferred for expenditure to the Department of Justice.

Date of establishment.

Transfer of duties of Bureau of Identification and Investigation.

Transfer of equipment, data, records, etc.

Appropriations for expenditure by Bureau transferred to Department of Justice.

SEC. 4. That all courts, officers and officials thereof, shall furnish all statistical data with respect to such courts as is hereinbefore mentioned, such information to be furnished on forms provided by the Attorney General, and to be furnished at such time or times as may be required by the Attorney General. That any clerk or officer of any court in the State of North Carolina who shall willfully fail or refuse to furnish such statistical data, after demand therefor has been made by the Attorney General, shall be subject to be amerced, upon motion of the Attorney General, in the sum of two hundred dollars ($200.00) in the Superior Court of the county in which such officer resides.

Courts and officials thereof to furnish statistical data.

Forms for reports

Penalty for failure of court officials to furnish data.

SEC. 5. That the Attorney General shall set up in the Department of Justice a division to be designated as the Division of Legislative Drafting and Codification of Statutes. That there shall be assigned to this division by the Attorney General duties as follows:

Division of Legislative Drafting and Codification of Statutes.

Preparation of and assistance in drafting legislative bills.

(a) To prepare bills to be presented to the General Assembly at the request of the Governor, and the Officials of the State and Departments thereof, and members of the General Assembly, and to advise with said officials in connection therewith, and to advise with and assist counties, cities, and towns in the drafting of legislation to be submitted to the General Assembly.

Supervision of recodification and annotation of existing statute law of North Carolina and supplements thereto.

(b) To supervise the recodification of all of the Statute Law of North Carolina and supervise the keeping of such recodifications current by including therein all laws hereafter enacted by supplements thereto issued periodically, all of which recodifications and supplements shall be appropriately annotated, and the Consolidated Statutes made complete by including therein all such general public statutes as have been enacted since the last codification thereof, including the Acts of this present General Assembly, all of which shall be inserted in appropriate places under chapters and subdivisions of chapters as may be found proper and necessary, the sections thereof to be numbered consecutively, as in the Consolidated Statutes of one thousand nine hundred nineteen, but section numbers may be left at the end of chapters which may be available for future enactments of pertinent laws: To supervise the preparation of thorough, accurate and full alphabetical cross indexes of all laws contained in such recodification, and provide for proper cross indexes to the Constitution of the United States, the Constitution of this State, and the statutes of the United States providing for the authentication of records, naturalization of aliens, and the removal of causes from State Courts to Federal Courts, and other subjects which may be properly included as appendixes in such recodification.

Preparation of alphabetical cross indexes of statute laws, Constitutions of United States and North Carolina, etc.

Arrangements for publication of recodification, annotations, etc.

(c) To carry out the provisions of the foregoing Subsection (b), the said Division of the Department of Justice is authorized to make an arrangement with any publisher or publishers for doing the necessary editorial work and publication of the recodification, annotation, appendixes thereto, and indexing of such recodification of the Statute Law of North Carolina and all Acts of the General Assembly thereafter passed, which arrangement will provide that all of such work shall be done by such publisher or publishers without cost to the State, but shall be done under the supervision and direction of the said division and subject to the final approval and acceptance by the General Assembly of North Carolina by such laws as may hereafter be passed with respect thereto, and if such recodification is adopted by the General Assembly, the same may be adopted and given such legal effect and legal status and character as may be determined and fixed by the General Assembly. The arrangements to be made with such publisher or publishers shall provide for a price at which such volume or volumes shall be sold in the State of North Carolina, which shall not be in excess of such sum as may be found by said division to be reasonable and fair. Such arrangement shall likewise provide that the publisher shall fur-

Publications to be made without cost to State.

Final approval and acceptance by General Assembly.

Publication arrangements to provide for sale price of volume within State.

nish to the State of North Carolina, without charge, one hundred and twenty volumes of such recodification and all subsequent additions thereof and supplements thereto, the distribution thereof to be made by the Governor and Council of State to the State Officers, Departments and Agencies. No arrangements so made by the said division shall in any respect be considered as creating any obligation on the part of any succeeding General Assembly to adopt said recodification or anywise limit or affect such action as any succeeding General Assembly may take with respect to the extent to which such recodification shall be adopted, or to pay such publisher or publishers any part of the costs incurred by such publisher or publishers on account of same, irrespective of any action the General Assembly may take in respect thereto.

Volumes of recodification, etc. for use of State officials furnished without charge.

No obligation on part of succeeding General Assembly.

After the said recodification has been completed, the said division shall make a report to the next regular session of the General Assembly as to the said recodification of said laws and its recommendations with respect thereto.

Report to General Assembly as to recodification, etc.

SEC. 6. That the Attorney General shall set up in the Department of Justice a division to be designated as the Bureau of Investigation, and appoint a director thereof. That there shall be assigned to this division by the Attorney General duties as follows:

Bureau of Investigation.

Appointment of director.

Duties.

(a) To perform all the duties imposed upon the State Bureau of Identification and Investigation created by Chapter three hundred forty-nine of the Public Laws of one thousand nine hundred thirty-seven, except the duties therein imposed as to statistics, which duties under the provisions of this law are to be performed by the Division of Criminal and Civil Statistics; and all the functions of the Bureau of Identification and Investigation created by Chapter three hundred forty-nine, Public Laws of one thousand nine hundred thirty-seven, are hereby transferred to the Department of Justice to be exercised as herein provided, but said transfer shall not take place until the first day of July, one thousand nine hundred thirty-nine; and from and after that date the Bureau of Identification and Investigation created by Chapter three hundred forty-nine, Public Laws of one thousand nine hundred thirty-seven, shall be abolished.

Performance of duties and functions imposed upon State Bureau of Identification and Investigation.

Date of transfer.

Bureau of Identification and Investigation abolished as of date of transfer.

SEC. 7. That from and after the first day of July, one thousand nine hundred thirty-nine, all appropriations and funds available for expenditure by the Bureau of Identification and Investigation set up under the provisions of Chapter three hundred forty-nine of the Public Laws of one thousand nine hundred thirty-seven, and under the provisions of Senate Bill Number forty-seven entitled, "Law Enforcement Officers' Benefit Fund," ratified on the first day of February, one thousand nine hundred thirty-nine, shall be transferred to and made available for expenditure by the Attorney General for the exclusive purpose of

Transfer of appropriations and funds for expenditure by Attorney General for Bureau of Investigation.

Laws applicable to Bureau of Investigation.

paying all expenses incurred in connection with the activities of the Bureau of Investigation. That all provisions in the said laws with reference to the Bureau of Identification and Investigation shall be construed as applicable to the Department of Justice and the Bureau of Investigation.

Apportionment of funds to Division of Civil and Criminal Statistics and Bureau of Investigation.

That from the said funds, however, there shall be made available by the Budget Bureau, with the approval of the Governor, such part thereof as found to be properly apportionable to the Division of Criminal and Civil Statistics and the work of the Bureau of Identification and Investigation to be performed after July first, one thousand nine hundred thirty-nine, by said Bureau of Investigation.

Duties of Attorney General.

The Attorney General shall continue to perform the duties now required of that office by law.

SEC. 8. That the Attorney General shall continue to exercise the duties now prescribed by law as to civil litigation affecting the State, or any agency or department thereof, and shall assign to the members of the staff all duties to be performed in connection with criminal prosecutions and civil litigation authorized by this Act or by existing laws.

Conflicting laws repealed.

SEC. 9. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 10. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 128 CHAPTER 316

AN ACT TO TRANSFER THE OFFICE OF LEGISLATIVE REFERENCE LIBRARIAN TO THE OFFICE OF SECRETARY OF STATE.

The General Assembly of North Carolina do enact:

Creation of Division of Publications under supervision of Secretary of State.

SECTION 1. The Secretary of State is hereby authorized and empowered to set up a division to be designated as the Division of Publications and to appoint a director thereof who shall be known as the assistant to the Secretary of State, which division shall perform all the duties now prescribed by law of the Legislative Reference Librarian, except those duties of the Legislative Reference Librarian which are assigned to the Department of Justice under a bill now pending in the General Assembly creating a Department of Justice, and the office of Legislative Reference Librarian is hereby transferred to the office of the Secretary of State and the Division of Publica-

Assignment of functions of Legislative Reference Librarian.

tions set up therein. The Division of Publications shall perform the said duties heretofore performed by the Legislative Reference Librarian, and, in addition thereto, all such other duties as may be assigned by the Secretary of State: *Provided, however*, that the provisions of this Act shall not become effective until the first day of July, one thousand nine hundred thirty-nine.

Duties of Division of Publications.

Effective date.

SEC. 2. All laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 161 **CHAPTER 317**

AN ACT TO AUTHORIZE AND INSTRUCT THE DEPARTMENT OF CONSERVATION AND DEVELOPMENT TO AID OWNERS OF FOREST LAND IN NORTH CAROLINA THROUGH INSPECTION, INSTRUCTION AND DEMONSTRATION SO THAT THE STATE'S TIMBER SUPPLY MAY BE PERPETUATED.

WHEREAS, the forests of North Carolina have lost practically all the original old-growth timber upon which our industries have heretofore largely depended, and

Preamble: Loss of old growth timber in forests of State.

WHEREAS, the increasing demand for small and young-growth timber threatens not only the future timber supply but the very life of some of our most important wood-using industries, and

Timber supply and dependent industries threatened.

WHEREAS, definite and far reaching steps are necessary to insure the permanence of both forest and industries involving the welfare of the State, and

Importance of corrective measures.

WHEREAS, the Department of Conservation and Development through its Division of Forestry is prepared and partially equipped to undertake all necessary steps looking to the perpetuation of our forest resources; *Now, therefore,*

Facilities of the Division of Forestry.

The General Assembly of North Carolina do enact:

SECTION 1. That the Department of Conservation and Development through the Division of Forestry shall inaugurate the following policy and plan looking to the cooperation with private and public forest owners in this State in so far as funds may be available through legislative appropriation, gifts

Policy and plan to be inaugurated by Division of Forestry, Dept. of Conservation and Development.

of money or land, or such cooperation with landowners and public agencies as may be available:

Extension of forest fire prevention organization.

a. The extension of the forest fire prevention organization to all counties in the State needing such protection.

Improvement of neglected land.

b. To cooperate with federal and other public agencies in the restoration of forest growth on land unwisely cleared and subsequently neglected.

Trained experts to inspect private forests and advise landowners.

c. To furnish trained and experienced experts in forest management, to inspect private forest lands and to advise with forest landowners with a view to the general observance of recognized and practical rules of growing, cutting and marketing timber. The services of such trained experts of the department must naturally be restricted to those landowners who agree to carry out so far as possible the recommendations of said department.

Restrictions on services of experts.

Preparation and distribution of printed matter on use of forest resources.

d. To prepare and distribute printed and other material for the use of teachers and club leaders and to provide instruction to schools and clubs and other groups of citizens in order to train the younger generation in the principles of wise use of our forest resources.

Establishment of State demonstration forests.

e. To acquire small areas of suitable land in the different regions of the State on which to establish small, model forests which shall be developed and used by the said Department of Conservation and Development as State demonstration forests for experiment and demonstration in forest management.

SEC. 2. That the boards of county commissioners of the various counties of North Carolina are herewith authorized to turn over to the said Department of Conservation and Development title to such tax delinquent lands as may have been acquired by said counties under tax sale and as in the judgment of the State Forester may be suitable for the purposes named in Section one, paragraph "e" of this Act.

Use of lands acquired by counties through tax foreclosures as demonstration forests.

SEC. 3. In the carrying out of the provisions of Section two of this Act, the several boards of county commissioners shall furnish forthwith on written request of the Department of Conservation and Development a complete list of all properties acquired by the county under tax sale and which have remained unredeemed for a period of two years or more. On receipt of this list the State Forester of the Department of Conservation and Development shall have the lands examined and if any one or more of these properties is in his judgment suitable for the purposes set forth in Section two, request shall be made through the Director of said department to the county commissioners for the acquisition of such land by the department at a price not to exceed the actual amount of

Procedure for asquisition of delinquent tax lands from counties.

taxes due without penalties. On receipt of this request the county commissioners shall make permanent transfer of such tract or tracts of land to the department through fee simple deed or other legal transfer, said deed to be approved by the Attorney General of North Carolina, and shall then receive payment from the department as above outlined.

Purchase of lands for use as demonstration forests authorized.

SEC. 4. Where no suitable tax-delinquent lands are available and in the judgment of the Department of Conservation and Development the establishment of a demonstration forest is advisable, the department may purchase sufficient land for the establishment of such a demonstration forest at a fair and agreed-upon price, the deed for such land to be subject to approval of the Attorney General, but nothing in this Act shall allow the Department of Conservation and Development to acquire land under the right of eminent domain.

Forest management appropriation to Forestry Division, for inauguration of program.

SEC. 5. That necessary funds for carrying out this Act shall be set up in the regular budget as an item entitled Forest Management and that the budget for the Forestry Division of the Department of Conservation and Development shall be increased for the biennium one thousand nine hundred thirty-nine and one thousand nine hundred forty-one in the amount of five thousand ($5,000.00) dollars annually to inaugurate the program called for in this Act.

Conflicting laws repealed.

SEC. 6. That all laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 7. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 208 **CHAPTER 318**

AN ACT TO PROVIDE FOR THE EQUITABLE AND EXPEDITIOUS SETTLEMENT OF CONTROVERSIES ARISING BETWEEN THE STATE HIGHWAY AND PUBLIC WORKS COMMISSION AND THE AWARDEE ON PROJECTS COMING UNDER JURISDICTION OF SUCH COMMISSION.

The General Assembly of North Carolina do enact:

Ch. 2, Public Laws, 1921, amended. Settlement of controversies between State Highway and Public Works Commission and awardees of contracts.

SECTION 1. That Chapter two of the Public Laws of one thousand nine hundred and twenty-one, as amended, being Section three thousand eight hundred and forty-six of Volume three of the Consolidated Statutes, be and the same is hereby amended by adding a new section designated as Section fif-

teen (a), Consolidated Statutes three thousand eight hundred and forty-six (va) to read as follows:

Claim of contractor filed with State Highway Engineer.

That upon the completion of any contract awarded by the State Highway and Public Works Commission to any contractor, if the contractor fails to receive such settlement as he claims to be entitled to under his contract, he may, within sixty days from the time of receiving his final estimate, file with the State Highway Engineer a claim for such amount as he deems himself entitled to under the said contract; and the

Decision of Engineer.

State Highway Engineer shall, within thirty days from the receipt of the said claim, pass upon the same and notify the contractor in writing of his decision. If the contractor desires to do so, he may, within thirty days from the receipt of

Right of contractor to appeal to State Highway and Public Works Commission.

the said decision of the State Highway Engineer, appeal in writing to the State Highway and Public Works Commission. Upon receipt of the said appeal, the Chairman of the State

Appointment of committee for hearing.

Highway and Public Works Commission shall immediately appoint a committee of three members of the said commission, no one of whom shall be the commissioner from the division in which the said work was done; and the committee so appointed shall promptly set a time and place for the hearing of the

Hearing and determination of matter by committee.

said appeal. The committee or the claimant shall have power and authority to summon persons and papers and the committee shall make a complete investigation of all matters relating to the said appeal and the contract and the work out of which it grows, and (determine all) matters at issue in a fair and equitable manner according to their best judgment. The decision of the said committee shall be final and any amount which

Decision of committee shall be final.

they may award the said contractor will be a valid claim against the State Highway and Public Works Commission;

Right of appeal to Superior Court.

provided, however, an appeal may be had from the decision of the said committee to the Superior Court of Wake County

Procedure on appeal.

under the same terms, conditions and procedure as appeals from the Industrial Commission, as provided in Section sixty of Chapter one hundred twenty of the Public Laws of one thousand nine hundred and twenty-nine. The provisions of

Act deemed part of contract between Commission and contractors.

this Act shall be deemed to enter into and form a part of every contract entered into between the State Highway and Public Works Commission and any contractor, and no provision in said contracts shall be valid that are in conflict herewith.

SEC. 2. That this Act shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 223 **CHAPTER 319**

AN ACT TO AMEND SECTION TWO THOUSAND ONE HUNDRED AND THIRTY-FIVE (A) OF THE CONSOLIDATED STATUTES, RELATING TO GAME.

The General Assembly of North Carolina do enact:

SECTION 1. Amend Section two thousand one hundred and thirty-five (a) by placing a comma and the words "Pitt, Haywood," between the word "Henderson" and the word "and." C. S. 2135 (a), amended, to permit fox hunting at any time in Pitt and Haywood Counties.

SEC. 2. All laws and clauses of laws in conflict herewith are hereby repealed. Conflicting laws repealed.

SEC. 3. This Act shall be in full force and effect from and after ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 232 **CHAPTER 320**

AN ACT TO PROHIBIT THE ADULTERATION AND MISBRANDING OF FOODS, DRUGS, COSMETICS AND DEVICES; TO PROHIBIT FALSE ADVERTISEMENT OF THE SAME, AND TO RENDER THE PROVISIONS OF THE STATE LAW AND THE ENFORCEMENT AND ADMINISTRATION OF THE SAME UNIFORM WITH FEDERAL LEGISLATION, ENFORCEMENT AND ADMINISTRATION ON THE SUBJECT, AND FOR OTHER PURPOSES.

The General Assembly of North Carolina do enact:

SECTION 1. That this Act may be cited as the North Carolina Food, Drug and Cosmetic Act. Title of Act.

SEC. 2. That for the purpose of this Act— Definitions.

(a) The term "Commissioner" means the Commissioner of Agriculture; the term "Department" means the Department of Agriculture, and the term "Board" means the Board of Agriculture. "Commissioner," "Department" and "Board."

(b) The term "person" includes individual, partnership, corporation, and association. "Person."

(c) The term "food" means (1) articles used for food or drink for man or other animals, (2) chewing gum, and (3) articles used for components of any such article. "Food."

(d) The term "drug" means (1) articles recognized in the official United States Pharmacopoeia, official Homoepathic "Drug."

Pharmacopoeia of the United States, or official National Formulary, or any supplement to any of them; and (2) articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals; and (3) articles (other than food) intended to affect the structure or any function of the body of man or other animals; and (4) articles intended for use as a component of any article specified in clause (1), (2), or (3); but does not include devices or their components, parts, or accessories.

"Device."

(e) The term "device" (except when used in paragraph (k) of this section and in Sections 3 (j), 11 (f), 15 (c) and 18 (c) means instruments, apparatus and contrivances, including their components, parts and accessories, intended (1) for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or (2) to affect the structure or any function of the body of man or other animals.

"Cosmetic."

(f) The term "cosmetic" means (1) articles intended to be rubbed, poured, sprinkled, or sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance, and (2) articles intended for use as a component of any such articles, except that such terms shall not include soap.

"Official compendium."

(g) The term "official compendium" means the official United States Pharmacopoeia, official Homoeopathic Pharmacopoeia of the United States, official National Formulary, or any supplement to any of them.

"Label."

(h) The term "label" means a display of written, printed or graphic matter upon the immediate container of any article; and a requirement made by or under authority of this Act that any word, statement, or other information appear on the label shall not be considered to be complied with unless such word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of such article, or is easily legible through the outside container or wrapper.

"Immediate container."

(i) The term "immediate container" does not include package liners.

"Labeling."

(j) The term "labeling" means all labels and other written, printed, or graphic matter (1) upon an article or any of its containers or wrappers, or (2) accompanying such article.

Method for determining whether labeling or advertisement of article is misleading.

(k) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, then in determining whether the labeling or advertisement is misleading, there shall be taken

into account (among other things) not only representations made or suggested by statement, word, design, device, sound, or any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts material in the light of such representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under such conditions of use as are customary or usual.

"Advertisement."

(l) The term "advertisement" means all representations disseminated in any manner or by any means, other than by labeling, for the purposes of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices or cosmetics.

Representation of a drug as an antiseptic.

(m) The representation of a drug, in its labeling or advertisement, as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or such other use as involves prolonged contact with the body.

"New drug."

(n) The term "new drug" means (1) any drug the composition of which is such that such drug is not generally recognized, among experts qualified by scientific training and experience to evaluate the safety of drugs, as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or (2) any drug the composition of which is such that such drug, as a result of investigations to determine its safety for use under such conditions, has become so recognized, but which has not, otherwise than in such investigation, been used to a material extent or for a material time under such conditions.

"Contaminated with filth."

(o) The term "contaminated with filth" applies to any food, drug, device or cosmetic not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminations.

Provisions of Act deemed to include production, manufacture, processing, etc.

(p) The provisions of this Act regarding the selling of food, drugs, devices, or cosmetics, shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of any such article for sale; and the sale, dispensing, and giving of any such article; and the supplying or applying of any such article in the conduct of any food, drug or cosmetic establishment.

"Federal Act."

(q) The term "Federal Act" means the Federal Food, Drug and Cosmetic Act (Title 21 U. S. C. 301 et seq.; 52 Stat. 1040 et seq.)

Certain acts prohibited.

SEC. 3. That the following Acts and the causing thereof within the State of North Carolina are hereby prohibited:

Manufacture, sale, etc. of misbranded or adulterated articles.

(a) The manufacture, sale, or delivery, holding or offering for sale of any food, drug, device, or cosmetic that is adulterated or misbranded.

Adulteration or misbranding of articles.

(b) The adulteration or misbranding of any food, drug, device, or cosmetic.

Receipt, etc. of adulterated or misbranded articles.

(c) The receipt in commerce of any food, drug, device, or cosmetic that is adulterated or misbranded, and the delivery or proffered delivery thereof for pay or otherwise.

Sales in violation of Sections 12 and 16.

(d) The sale, delivery for sale, holding for sale, or offering for sale of any article in violation of Sections twelve (12) or sixteen (16).

Dissemination of false advertisement.

(e) The dissemination of any false advertisement.

Refusal to permit entry or inspection, etc.

(f) The refusal to permit entry or inspection, or refusal to permit the taking of a sample, as authorized by Section twenty-one (21).

Giving of false guaranty or undertaking.

(g) The giving of a guaranty or undertaking which guaranty or undertaking is false, except by a person who relied on a guaranty or undertaking to the same effect signed by, and containing the name and address of the person residing in the State of North Carolina from whom he received in good faith the food, drug, device or cosmetic.

Violations of Sec. 6.

(h) The removal or disposal of a detained or embargoed article in violation with Section six (6).

Alteration of label, etc.

(i) The alteration, mutilation, destruction, obliteration, or removal of the whole or any part of the labeling of, or the doing of any other act with respect to a food, drug, device or cosmetic, if such act is done while such article is held for sale and results in such article being misbranded.

Counterfeiting of labels, etc.

(j) Forging, counterfeiting, simulating, or falsely representing, or without proper authority using any mark, stamp, tag, label or other identification device authorized or required by regulations promulgated under the provisions of this Act.

Improper advertising.

(k) The using, on the labeling of any drug or in any advertisement relating to such drug, of any representation or suggestion that an application with respect to such drug is effective under Section sixteen (16), or that such drug complies with the provisions of such section.

Temporary or permanent injunction restraining violations.

SEC. 4. In addition to the remedies hereinafter provided the Commissioner of Agriculture is hereby authorized to apply to the Superior Court for, and such court shall have jurisdiction

upon hearing and for cause shown, to grant a temporary or permanent injunction restraining any person from violating any provision of Section three (3); irrespective of whether or not there exists an adequate remedy at law.

Violations made misdemeanor.

SEC. 5. (a). Any person who violates any of the provisions of Section three (3) shall be guilty of a misdemeanor and shall on conviction thereof be subject to imprisonment in county jail for not more than six months or a fine of not more than two hundred dollars, or both such imprisonment and fine; but if the violation is committed after a conviction of such person under this section has become final, such person shall be subject to imprisonment in county jail for not more than twelve months, or a fine of not more than four hundred dollars, or both such imprisonment and fine.

Sale in reliance on guarantee of article as defense for violations of Sec. 3 (a) and (c).

(b) No person shall be subject to the penalties of Subsection (a) of this section, for having violated Section three (3) (a) or (c) if he establishes a guaranty or undertaking signed by, and containing the name and address of, the person residing in the State of North Carolina from whom he received in good faith the article, to the effect that such article is not adulterated or misbranded within the meaning of this Act, designating this Act.

Liability of advertising agency, for dissemination of false advertisement.

(c) No Publisher, radio-broadcast licensee, or agency or medium for the dissemination of an advertisement, except the manufacturer, packer, distributor, or seller of the article to which a false advertisement relates, shall be liable under this section by reason of the dissemination by him of such false advertisement, unless he has refused on the request of the Commissioner of Agriculture to furnish the Commissioner the name and post office address of the manufacturer, packer, distributor, seller or advertising agency, residing in the State of North Carolina who caused him to disseminate such advertisement.

Detention of product or article suspected of being adulterated or misbranded.

SEC. 6. (a) Whenever a duly authorized agent of the Department of Agriculture finds or has probable cause to believe, that any food, drug, device or cosmetic is adulterated, or so misbranded as to be dangerous or fraudulent within the meaning of this Act, he shall affix to such article a tax or other appropriate marking giving notice that such article is, or is suspected of being, adulterated or misbranded and has been detained or embargoed, and warning all persons not to remove or dispose of such article by sale or otherwise until permission for removal or disposal is given by such agent or the court. It shall be unlawful for any person to remove or dispose of such detained or embargoed article by sale or otherwise without such permission.

Petition for order of condemnation.

(b) When an article detained or embargoed under Subsection (a) has been found by such agent to be adulterated, or misbranded, he shall petition the judge of any recorder's, county, or superior court in whose jurisdiction the article is detained or embargoed for an order for condemnation of such article. When such agent has found that an article so detained or embargoed is not adulterated or misbranded, he shall remove the tag or other marking.

Release of detained articles.

Destruction of article or product found by court to to be adulterated or misbranded.

(c) If the court finds that a detained or embargoed article is adulterated or misbranded, such article shall, after entry of the decree be destroyed at the expense of the claimant thereof, under the supervision of such agent; and all court costs and fees, and storage and other proper expenses, shall be taxed against the claimant of such article or his agent: *Provided*, that when the adulteration or misbranding can be corrected by proper labeling or processing of the article, the court, after entry of the decree and after such costs, fees, and expenses have been paid and a good and sufficient bond, conditioned that such article shall be so labeled or processed, has been executed, may by order direct that such article be delivered to the claimant thereof for such labeling or processing under the supervision of an agent of the Department of Agriculture. The expense of such supervision shall be paid by the claimant. Such bond shall be returned to the claimant of the article on representation to the court by the Department of Agriculture that the article is no longer in violation of this Act, and that the expenses of such supervision have been paid.

Correction of processing or labeling under supervision of Dept. of Agriculture.

Condemnation of unfit and deleterious foods.

(d) Whenever any duly authorized agent of the Department of Agriculture shall find in any room, building, vehicle of transportation or other structure, any meat, sea food, poultry, vegetable, fruit or other perishable articles which are unsound, or contain any filthy, decomposed or putrid substance, or that may be poisonous or deleterious to health or otherwise unsafe, the same being hereby declared to be a nuisance, the agent shall forthwith condemn or destroy the same, or in any other manner render the same unsalable as human food.

Prosecution of violations.

SEC. 7. It shall be the duty of any solicitor of a recorder's county, or superior court to whom the Commissioner of Agriculture reports any violation of this Act, to cause appropriate proceedings to be instituted in the proper courts without delay and to be prosecuted in the manner required by law. Before any violation of this Act is reported to any such solicitor for the institution of a criminal proceeding, the person against whom such proceeding is contemplated shall be given appropriate notice and an opportunity to present his views before the Commissioner of Agriculture or his designated agent, either orally or in writing, in person or by attorney, with regard to such contemplated proceeding.

Notice of contemplated proceedings and opportunity to show cause.

SEC. 8. Nothing in this Act shall be construed as requiring the Commissioner of Agriculture to report for the institution of proceedings under this Act, minor violations of this Act, whenever the commissioner believes that the public interest will be adequately served in the circumstances by a suitable written notice or warning.

Report of minor violations in discretion of Commissioner.

SEC. 9. Whenever in the judgment of the Board of Agriculture such action will promote honesty and fair dealing in the interest of consumers, the Board shall promulgate regulations fixing and establishing for any food or class of food a reasonable definition and standard of identity, and/or reasonable standard of quality and/or fill of container. In prescribing a definition and standard of identity for any food or class of food in which optional ingredients are permitted, the board shall, for the purpose of promoting honesty and fair dealing in the interest of consumers, designate the optional ingredients which shall be named on the label. The definitions and standards so promulgated shall conform so far as practicable to the definitions and standards promulgated by the Secretary of the United States Department of Agriculture under authority conferred by Section four hundred one (401) of the Federal Act.

Establishment of reasonable standards of quality by Board of Agriculture.

Designation of optional ingredients.

SEC. 10. A food shall be deemed to be adulterated—

Foods deemed to be adulterated.

(a) (1) If it bears or contains any poisonous or deleterious substance which may render it injurious to health; but in case the substance is not an added substance such food shall not be considered adulterated under this clause if the quantity of such substance in such food does not ordinarily render it injurious to health; or (2) if it bears or contains any added poisonous or added deleterious substance which is unsafe within the meaning of Section thirteen (13); or (3) if it consists in whole or in part of a diseased, contaminated, filthy, putrid or decomposed substance, or if it is otherwise unfit for food; or (4) if it has been produced, prepared, packed or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered diseased, unwholesome or injurious to health; or (5) if it is the product of a diseased animal or an animal which has died otherwise than by slaughter, or that has been fed upon the uncooked offal from a slaughterhouse; or (6) if its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health.

Foods containing poisonous or deleterious substances, packed under unsanitary conditions, etc.

(b) (1) If any valuable constituent has been in whole or in part omitted or abstracted therefrom; or (2) if any substance has been substituted wholly or in part therefor; or (3) if damage or inferiority has been concealed in any manner; or (4) if any substance has been added thereto or mixed or packed therewith so as to increase its bulk or weight, or reduce its

Adulterated by omissions and substitutions, etc.

quality or strength or make it appear better or of greater value than it is.

Confectioneries deemed adulterated.

(c) If it is confectionery and it bears or contains any alcohol or nonnutritive article or substance except harmless coloring, harmless flavoring, harmless resinous glaze not in excess of four-tenths of one per centum, harmless natural gum, and pectin: *Provided*, that this paragraph shall not apply to any confectionery by reason of its containing less than one half of one per centum by volume of alcohol derived solely from the use of flavoring extracts, or to any chewing gum by reason of its containing harmless nonnutritive masticatory substances.

(d) If it bears or contains a coal-tar color other than one from a batch which has been certified by the United States Department of Agriculture.

Foods deemed misbranded.

SEC. 11. A food shall be deemed to be misbranded—

False labeling.

(a) If its labeling is false or misleading in any particular.

Misnamed.

(b) If it is offered for sale under the name of another food.

Imitations.

(c) If it is an imitation of another food, unless its label bears, in type of uniform size and prominence, the word "imitation" and, immediately thereafter, the name of the food imitated.

Misleading container.

(d) If its container is so made, formed or filled as to be misleading.

Sold in packages failing to meet requirements.

(e) If in package form, unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board of Agriculture.

Labeled in manner designed to conceal required information.

(f) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Sold under fixed standard of identity, upon failure to conform.

(g) If it purports to be or is represented as a food for which a definition and standard of identity has been prescribed by regulations as provided by Section nine (9), unless (1) it conforms to such definition and standard, and (2) its label bears the name of the food specified in the definition and stand-

ard, and, in so far as may be required by such regulations, the common names of optional ingredients (other than spices, flavoring, and coloring) present in such food.

Sold under standard of quality, etc., upon failure to conform.

(h) If it purports to be or is represented as (1) a food for which a standard of quality has been prescribed by regulations as provided by Section nine (9) and its quality falls below such standard unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard; or (2) a food for which a standard or standards of fill of container have been prescribed by regulation as provided by Section nine (9), and it falls below the standard of fill of container applicable thereto, unless its label bears, in such manner and form as such regulations specify, a statement that it falls below such standard.

Usual name of food or ingredients not shown on label.

(i) If it is not subject to the provisions of paragraph (g) of this section, unless its label bears (1) the common or usual name of the food, if any there be, and (2) in case it is fabricated from two or more ingredients, the common or usual name of each such ingredient; except that spices, flavorings, and colorings, other than those sold as such, may be designated as spices, flavorings, and colorings without naming each: *Provided*, that, to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable or results in deception or unfair competition, exemptions shall be established by regulations promulgated by the Board of Agriculture.

Foods for special dietary uses, when label fails to disclose necessary information.

(j) If it purports to be or is represented for special dietary uses, unless its label bears such information concerning its vitamin, mineral, and other dietary properties as the Board of Agriculture determines to be, and by regulations prescribes as, necessary in order to fully inform purchasers as to its value for such uses.

Foods containing artificial ingredients not shown on label.

(k) If it bears or contains any artificial flavoring, artificial coloring, or chemical preservative, unless it bears a label stating that fact: *Provided*, that to the extent that compliance with the requirements of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Board of Agriculture: *Provided, further*, that for the purpose of complying with the provisions of this Act, as it pertains to bottled soft drinks, either the bottle crown or the crown together with the blown-in-the-bottle or annealed-to-the-bottle statements, now in usual and common use in this State, shall be deemed sufficient labeling and no paper label shall be necessary.

SEC. 12. (a) Whenever the Commissioner of Agriculture finds after investigation by himself or his duly authorized agents, that the distribution in North Carolina of any class

Permits governing manufacture of foods subject to contamination with micro-organisms.

of food may, by reason of contamination with micro-organisms during manufacture, processing, or packing thereof in any locality in this State, be injurious to health, and that such injurious nature cannot be adequately determined after such articles have entered commerce, the commissioner, then, and in such case only, shall promulgate regulations providing for the issuance, to manufacturers, processors, or packers of such class of food in such locality, or permits to which shall be attached such conditions governing the manufacture, processing, or packing of such class of food, for such temporary period of time, as may be necessary to protect the public health; and after the effective date of such regulations, and during such temporary period, no person shall introduce or deliver for introduction into commerce any such food manufactured, processed, or packed by any such manufacturer, processor, or packer unless such manufacturer, processor, or packer holds a permit issued by the commissioner as provided by such regulations.

Suspension of permit upon violation of conditions.

(b) The Commissioner of Agriculture is authorized to suspend immediately upon notice any permit issued under authority of this section if it is found that any of the conditions of the permit have been violated. The holder of a permit so suspended shall be privileged at any time to apply for the reinstatement of such permit, and the commissioner shall immediately after prompt hearing and an inspection of the establishment, reinstate such permit if it is found that adequate measures have been taken to comply with and maintain the conditions of the permit, as originally issued, or as amended.

Reinstatement of permit upon compliance.

Right of access to factory, etc. to determine if conditions are being complied with.

(c) Any officer or employee duly designated by the Commissioner of Agriculture shall have access to any factory or establishment, the operator of which holds a permit from the Commissioner of Agriculture for the purpose of ascertaining whether or not the conditions of the permit are being complied with, and denial of access for such inspection shall be ground for suspension of the permit until such access is freely given by the operator.

SEC. 13. Any poisonous or deleterious substance added to any food, except where such substance is required in the production thereof or cannot be avoided by good manufacturing practice, shall be deemed to be unsafe for purposes of the application of clause (2) of Section ten (10) (a); but when such substance is so required or cannot be so avoided, the Board of Agriculture shall promulgate regulations limiting the quantity therein or thereon to such extent as the board finds necessary for the protection of public health, and any quantity exceeding the limits so fixed shall also be deemed to be unsafe for the purposes of the application of clause (2) of Section ten (10) (a). While such a regulation is in effect limiting the quantity of any such substance in the case of any food, such food

Regulations by Board of Agriculture as to use of deleterious substances.

shall not, by reason of bearing or containing any added amount of such substance, be considered to be adulterated within the meaning of clause (1) Section ten (10) (a). In determining the quantity of such added substance to be tolerated in or on different articles of food, the board shall take into account the extent to which the use of such substance is required or cannot be avoided in the production of each such article, and the other ways in which the consumer may be affected by the same or other poisonous or deleterious substances.

Determination of quantity of deleterious substance allowable.

SEC. 14. A drug or device shall be deemed to be adulterated—

Drugs deemed to be adulterated.

(a) (1) If it consists in whole or in part of any filthy, putrid or decomposed substance; or (2) if it has been produced, prepared, packed, or held under insanitary conditions whereby it may have been contaminated with filth, or whereby it may have been rendered injurious to health, or (3) if it is a drug and its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health; or (4) if it is a drug and it bears or contains, for purposes of coloring only, a coal-tar color other than one from a batch certified by the United States Department of Agriculture.

Presence of injurious substances, or prepared under unsanitary conditions.

(b) If it purports to be or is represented as a drug the name of which is recognized in an official compendium, and its strength differs from, or its quality or purity falls below, the standard set forth in such compendium. Such determination as to strength, quality, or purity shall be made in accordance with the tests or methods of assay set forth in such compendium, or in the absence of or inadequacy of such tests or methods of assay, those so prescribed by the United States Department of Agriculture. No drug defined in an official compendium shall be deemed to be adulterated under this paragraph because it differs from the standard of strength, quality, or purity therefor set forth in such compendium, if its difference in strength, quality, or purity from such standard is plainly stated on its label. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoeopathic Pharmacopoeia of the United States it shall be subject to the requirements of the United States Pharmacopoeia unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

Improper representation as to quality or purity, through name or label.

Exception as drugs defined in an official compendium, etc.

(c) If it is not subject to the provisions of paragraph (b) of this section and its strength differs from, or its purity or quality falls below, that which it purports or is represented to possess.

Quality, etc. below representation.

Mixed or substituted drugs.

(d) If it is a drug and any substance has been (1) mixed or packed therewith so as to reduce its quality or strength; or (2) substituted wholly or in part therefor.

Drugs deemed misbranded.

SEC. 15. A drug or device shall be deemed to be misbranded—

Falsely labeled:

(a) If its labeling is false or misleading in any particular.

Improperly labeled.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity of the contents in terms of weight, measure, or numerical count: *Provided*, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established, by regulations prescribed by the Board of Agriculture.

Labeled in manner designed to evade requirements.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Presence of habit-forming substances—not labeled in keeping with regulations.

(d) If it is for use by man and contains any quantity of the narcotic or hypnotic substance alphaeucaine, barbituric acid, betaeucaine, bromal, cannabis, carbromal, chloral, coca, cocaine, codeine, heroin, marihuana, morphine, opium, paraldehyde, peyote, or sulphonmethane; or any chemical derivative of such substance, which derivative has been by the board after investigation, found to be, and by regulations under this Act, designated as, habit forming; unless its label bears the name and quantity or proportion of such substance or derivative and in juxtaposition therewith the statement "Warning—May be habit forming."

Drugs not designated by name recognized in official compendium, sold in violation of regulations.

(e) If it is a drug and is not designated solely by a name recognized in an official compendium unless its label bears (1) the common or usual name of the drug, if such there be; and (2) in case it is fabricated from two or more ingredients, the common or usual name of each active ingredient, including the kind and quantity or proportion of any alcohol, and also including, whether active or not, the name and quantity or proportion of any bromides, ether, chloroform, acetanilid, acetphenetidin, amidopyrine, antipyrine, atropine, hyoscine, hyoscyamine, arsenic, digitalis, digitalis glucosides, mercury, ouabain, strophanthin, strychnine, thyroid, or any derivative or preparation of any such substances, contained therein: *Provided*, that to the extent that compliance with the requirements of clause (2) of this paragraph is impracticable, exemptions shall be established by regulations promulgated by the Board of Agriculture.

Label omitting adequate directions for use and warnings against dangerous uses.

(f) Unless its labeling bears (1) adequate directions for use; and (2) such adequate warnings against use in those pathological conditions or by children where its use may be dangerous to health, or against unsafe dosage or methods or duration of administration or application, in such manner and form, as are necessary for the protection of users: *Provided*, that where any requirement of clause (1) of this paragraph, as applied to any drug or device, is not necessary for the protection of the public health, the Board of Agriculture shall promulgate regulations exempting such drug or device from such requirements.

Drugs recognized in official compendium—packed or labeled in violation of regulations prescribed.

(g) If it purports to be a drug the name of which is recognized in an official compendium, unless it is packaged and labeled as prescribed therein: *Provided*, that the method of packing may be modified with the consent of the Board of Agriculture. Whenever a drug is recognized in both the United States Pharmacopoeia and the Homoeopathic Pharmacopoeia of the United States, it shall be subject to the requirements of the United States Pharmacopoeia with respect to packaging and labeling unless it is labeled and offered for sale as a homoeopathic drug, in which case it shall be subject to the provisions of the Homoeopathic Pharmacopoeia of the United States and not to those of the United States Pharmacopoeia.

Drugs found by Dept. of Agriculture to be liable to deterioration, where regulation not complied with.

(h) If it has been found by the Department of Agriculture to be a drug liable to deterioration, unless it is packaged in such form and manner, and its label bears a statement of such precautions, as the Board of Agriculture shall by regulations require as necessary for the protection of public health. No such regulation shall be established for any drug recognized in an official compendium until the Commissioner of Agriculture shall have informed the appropriate body charged with the revision of such compendium of the need for such packaging or labeling requirements and such body shall have failed within a reasonable time to prescribe such requirements.

Imitation drugs; misleading containers.

(i) (1) If it is a drug and its container is so made, formed, or filled as to be misleading; or (2) if it is an imitation of another drug; or (3) if it is offered for sale under the name of another drug.

Prescribed use dangerous to health.

(j) If it is dangerous to health when used in the dosage, or with the frequency or duration prescribed, recommended, or suggested in the labeling thereof.

Drugs containing certain ingredients; unless sold on written prescription, etc.

(k) If it is a drug sold at retail for use by man and contains any quantity of aminopyrine, barbituric acid, cinchophen, dinitrophenol, or sulfanilamide; unless it is sold on a written prescription signed by a member of the medical, dental or veterinary profession who is licensed by law to administer such drug, and its label bears the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental or veterinary profession.

Exemption as to drugs sold on written prescription, upon compliance with conditions prescribed.

(1) A drug sold on a written prescription signed by a member of the medical, dental or veterinary profession (except a drug sold in the course of the conduct of a business of selling drugs pursuant to diagnosis by mail) shall be exempt from the requirements of this section if —(1) such member of the medical, dental or veterinary profession is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the seller, the serial number and date of such prescription, and the name of such member of the medical, dental or veterinary profession.

Regulations for sale of new drugs.

SEC. 16. (a) No person shall sell, deliver, offer for sale, hold for sale or give away any new drug unless (1) an application with respect thereto has become effective under Section five hundred and five of the Federal Act, or (2) when not subject to the Federal Act unless such drug has been tested and has not been found to be unsafe for use under the conditions prescribed, recommended or suggested in the labeling thereof, and prior to selling or offering for sale such drug, there has been filed with the Commissioner of Agriculture an application setting forth (a) full reports of investigations which have been made to show whether or not such drug is safe for use; (b) a full list of the articles used as components of such drug; (c) a full statement of the composition of such drug; (d) a full description of the methods used in, and the facilities and controls used for, the manufacture, processing, and packing of such drug; (e) such samples of such drug and of the articles used as components thereof as the commissioner may require; and (f) specimens of the labeling proposed to be used for such drug.

Effective date of applications to sell new drugs.

(b) An application provided for in Subsection (a) (2) of this section shall become effective on the sixtieth day after the filing thereof, except that if the Commissioner of Agriculture finds after due notice to the applicant and giving him an opportunity for a hearing, that the drug is not safe for use under the conditions prescribed, recommended or suggested in the proposed labeling thereof, he shall, prior to the effective date of the application, issue an order refusing to permit the application to become effective.

Order of refusal.

Drugs for investigational uses, sold, or licensed prior to Act, exempt.

(c) This section shall not apply—(1) to a drug intended solely for investigational use by experts qualified by scientific training and experience to investigate the safety of drugs provided the drug is plainly labeled "For investigational use only"; or (2) to a drug sold in this State at any time prior to the enactment of this Act or introduced into interstate commerce at any time prior to the enactment of the Federal Act; or (3) to any drug which is licensed under the virus, serum, and toxin Act of July first, one thousand nine hundred and two (U. S. C. one thousand nine hundred and thirty-four ed. title forty-two, Chapter four.)

(d) A drug dispensed on a written prescription signed by a physician, dentist, or veterinarian (except a drug dispensed in the course of the conduct of a business of dispensing drugs pursuant to diagnosis by mail), shall be exempt from the requirements of this section if (1) such physician, dentist, or veterinarian is licensed by law to administer such drug, and (2) such drug bears a label containing the name and place of business of the dispenser, the serial number and date of such prescription, and the name of such physician, dentist, or veterinarian. Drugs dispensed on written prescription of physician, etc. exempt.

(e) An order refusing to permit an application under this section to become effective may be revoked by the Commissioner of Agriculture.

SEC. 17. A cosmetic shall be deemed to be adulterated— Cosmetics deemed adulterated.

(a) If it bears or contains any poisonous or deleterious substance which may render it injurious to users under the conditions of use prescribed in the labeling or advertisement thereof, or under such conditions of use as are customary or usual: *Provided*, that this provision shall not apply to coal-tar hair dye, the label of which bears the following legend conspicuously displayed thereon: "Caution—This product contains ingredients which may cause skin irritation on certain individuals and a preliminary test according to accompanying directions should first be made. This product must not be used for dyeing the eyelashes or eyebrows; to do so may cause blindness," and the labeling of which bears adequate directions for such preliminary testing. For the purposes of this paragraph and paragraph (e) the term "hair dye" shall not include eyelash dyes or eyebrow dyes. Cosmetics containing poisonous or deleterious substances, etc.

(b) If it consists in whole or in part of any filthy, putrid, or decomposed substance. Decomposed, etc. substances.

(c) If it has been produced, prepared, packed, or held under insanitary conditions whereby it may have become contaminated with filth, or whereby it may have been rendered injurious to health. Prepared under unsanitary conditions.

(d) If its container is composed, in whole or in part, of any poisonous or deleterious substance which may render the contents injurious to health. Injurious containers.

(e) If it is not a hair dye and it bears or contains a coal-tar color other than one from a batch which has been certified by the United States Department of Agriculture. Coal tar color.

SEC. 18. A cosmetic shall be deemed to be misbranded— Cosmetics deemed misbranded.

(a) If its labeling is false or misleading in any particular. Falsely labeled.

(b) If in package form unless it bears a label containing (1) the name and place of business of the manufacturer, packer, or distributor; and (2) an accurate statement of the quantity, of the contents in terms of weight, measure, or numerical count: Inadequately labeled.

Provided, that under clause (2) of this paragraph reasonable variations shall be permitted, and exemptions as to small packages shall be established by regulations prescribed by the Board of Agriculture.

Labeled in manner designed to conceal required facts.

(c) If any word, statement, or other information required by or under authority of this Act to appear on the label or labeling is not prominently placed thereon with such conspicuousness (as compared with other words, statements, designs, or devices, in the labeling) and in such terms as to render it likely to be read and understood by the ordinary individual under customary conditions of purchase and use.

Misleading containers.

(d) If its container is so made, formed, or filled as to be misleading.

False advertising.

SEC. 19. (a) An advertisement of a food, drug, device or cosmetic shall be deemed to be false if it is false or misleading in any particular.

Advertising as remedy for named conditions deemed false.

(b) For the purpose of this Act the advertisement of a drug or device representing it to have any effect in albuminuria, appendicitis, arteriosclerosis, blood poison, bone disease, Bright's disease, cancer, carbuncles, cholecystitis, diabetes, diphtheria, dropsy, erysipelas, gallstones, heart and vascular diseases, high blood pressure, mastoiditis, measles, meningitis, mumps, nephritis, otitis media, paralysis, pneumonia, poliomyelitis, (infantile paralysis), prostrate gland disorders, pyelitis, scarlet fever, sexual impotence, sinus infection, smallpox, tuberculosis, tumors, typhoid, uremia, or venereal diseases, shall also be deemed to be false; except that no advertisement not in violation of Subsection (a) shall be deemed to be false under this subsection if it is disseminated only to members of the medical, dental, pharmaceutical, or veterinary professions, or appears only in the scientific periodicals of these professions, or is disseminated only for the purpose of public health education by persons not commercially interested, directly or indirectly, in the sale of such drugs or devices: *Provided,* that whenever the Department of Agriculture determines that an advance in medical science has made any type of self-medication safe as to any of the diseases named above, the board shall by regulation authorize the advertisement of drugs having curative or therapeutic effect for such disease, subject to such conditions and restrictions as the board may deem necessary in the interest of public health: *Provided,* that this subsection shall not be construed as indicating that self-medication for diseases other than those named herein is safe or efficacious.

Permissible advertising.

Regulations by Board of Agriculture.

SEC. 20. (a) The authority to promulgate regulations for the efficient enforcement of this Act is hereby vested in the Board of Agriculture, except that the Commissioner of Agriculture is hereby authorized to promulgate regulations under Section twelve. The board is hereby authorized to make the regulations promul-

gated under this Act conform, in so far as practicable with those promulgated under the Federal Act.

Hearings conducted by Commissioner.

(b) Hearings authorized or required by this Act shall be conducted by the Commissioner of Agriculture or such officer, agent, or employee as the commissioner may designate for the purpose.

Representative of Board of Pharmacy and Board of Health to sit with Commissioner in hearings.

(c) A representative duly designated by the North Carolina Board of Pharmacy, and a representative duly designated by the North Carolina Board of Health shall sit with the Commissioner of Agriculture, or his duly authorized agent, and assist in all hearings conducted in accordance with the provisions of Section fifteen (15) (d), (f), (g), and (h); and in all cases of hearings and/or investigations, under Section fifteen (15) (d), (f), (g), and (h) and under Section sixteen (16) (a), (b), and (d), transcripts of all findings and recommendations shall be submitted to the Board of Pharmacy and the Board of Health for approval.

Transcript of findings to Board of Pharmacy and Board of Health.

Notice of promulgation of certain regulations.

(d) Before promulgating any regulation contemplated by Sections nine (9); eleven (11) (j); twelve (12); fifteen (15), (d), (f), (g), and (h), or nineteen (19) (b), the Commissioner of Agriculture shall give appropriate notice of the proposal and of the time and place for a hearing. The regulation so promulgated shall become effective on a date fixed by the Board of Agriculture (which date shall not be prior to ninety days after its promulgation, except such regulations as may be promulgated under Section twelve (12), which regulations shall become effective on the date of promulgation). Such regulation may be amended or repealed in the same manner as is provided for its adoption; except that in the case of a regulation amending or repealing any such regulation the board, to such an extent as it deems necessary in order to prevent undue hardship, may disregard the foregoing provisions regarding notice, hearing, or effective date.

Right of hearing.

Effective date.

Amendment or repeal.

Approval of definitions and standards by Board of Pharmacy.

(e) All proposed definitions and standards for drugs shall, prior to promulgation by the Board of Agriculture be submitted to the Board of Pharmacy and the Board of Health for approval

Further powers of Commissioner of Agriculture for enforcement of Act.

SEC. 21. The Commissioner of Agriculture or his duly authorized agent shall have free access at all reasonable hours to any factory, warehouse, or establishment in which foods, drugs, devices or cosmetics are manufactured, processed, packed, or held for introduction into commerce, or are held after such introduction, or to enter any vehicle being used to transport or hold such foods, drugs, devices or cosmetics in commerce, for the purpose: (1) of inspecting such factory, warehouse, establishment, or vehicle and all pertinent equipment, finished and unfinished materials, containers, and labeling therein, to determine if any of the provisions of this Act are being violated, and (2) to secure samples or specimens of any food, drug, device or cosmetic after paying or offering to pay for such sample. It shall be the duty

of the Commissioner of Agriculture to make or cause to be made examination of samples secured under the provisions of this section to determine whether or not any provision of this Act is being violated.

Appointment of inspectors.

SEC. 22. (a) In the appointment of any drug inspector in carrying out the provisions of this Act, the Commissioner of Agriculture shall confer with the North Carolina Board of Pharmacy.

Examinations and investigations by Commissioner of Agriculture.

(b) The Commissioner of Agriculture is authorized to conduct the examinations and investigations for the purposes of this Act through officers and employees of the department or through any health, food or drug officer or employee of the State, or any political subdivision thereof: *Provided*, that when examinations and investigations are to be conducted through any officer or employee of any agency other than the Department of Agriculture the arrangements for such examinations and investigations shall be approved by the directing head of such agency.

Publication of reports of judgments, decrees, etc.

SEC. 23. (a) The Commissioner of Agriculture may cause to be published from time to time reports summarizing all judgments, decrees, and court orders which have been rendered under this Act, including the nature of the charge and the disposition thereof.

Dissemination of information as to foods, drugs, cosmetics, etc.

(b) The Commissioner of Agriculture may also cause to be disseminated such information regarding food, drugs, devices, and cosmetics as he deems necessary in the interest of public health and the protection of the consumer against fraud. Nothing in this section shall be construed to prohibit the Commissioner of Agriculture from collecting, reporting, and illustrating the results of the investigations of the department.

Partial invalidity provision.

SEC. 24. If any provision of this Act is declared unconstitutional or the applicability thereof to any person or circumstances is held invalid, the constitutionality of the remainder of the Act and applicability thereof to other persons and circumstances shall not be affected thereby.

Conflicting laws repealed.

Construction of Act.

SEC. 24½. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed: *Provided*, that nothing in this Act shall be construed as in any way amending, abridging, or otherwise affecting the validity of any law or ordinance relating to the State Board of Health, or any local health department, in their sanitary work in connection with public and private water supplies, sewerage, meat, milk, milk products, shellfish, fin fish, or other foods, or food products, or the production, handling, or processing thereof; but this Act shall be construed to be in addition thereto.

Exemptions.

SEC. 24 2/3. Meats and meat products subject to Federal Meat and Inspection Act approved March four, one thousand nine hundred and seven, as amended, are exempted from the

provisions of this Act so long as such meats and meat products remain in possession of the processor.

SEC. 25. This Act shall be in full force and effect from and after January first, one thousand nine hundred and forty: *Provided,* that the provisions of Section twenty (20) shall become effective on the date of the ratification of this Act, and thereafter the Commissioner of Agriculture is authorized hereby to conduct hearings, and the board is authorized to promulgate regulations which shall become effective on and after the effective date of this Act as the board shall direct. The North Carolina Pure Food and Drug Law of February twenty-fifth, one thousand nine hundred and seven, as amended, is hereby repealed effective January first, one thousand nine hundred and forty. Effective date.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 252 **CHAPTER 321**

AN ACT TO AMEND SECTION THREE THOUSAND THREE HUNDRED AND SIXTY-SIX (h) OF VOLUME THREE OF THE CONSOLIDATED STATUTES, AS AMENDED BY CHAPTER ONE HUNDRED SIXTY-SIX, PUBLIC LAWS, ONE THOUSAND NINE HUNDRED AND THIRTY-ONE, RELATING TO CERTAIN DEFECTIVE PROBATES.

The General Assembly of North Carolina do enact:

SECTION 1. That Section three thousand three hundred and sixty-six (h), Volume three, Consolidated Statutes, as amended by Chapter one hundred sixty-six of the Public Laws of one thousand nine hundred and thirty-one, be amended by striking out the words "prior to January first, one thousand nine hundred and thirty-one," and inserting in lieu thereof the words "prior to January first, one thousand nine hundred and thirty-nine," and that said section be further amended by striking out the words "January thirty-first, one thousand nine hundred and thirty-one," and inserting in lieu thereof the words "January first, one thousand nine hundred and thirty-nine." C. S., Vol. 3, section 3366 (h), validating certain defective acknowledgments prior to Jan. 1st, 1931, amended to include those prior to Jan. 1, 1939.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed, but this Act shall not apply to pending litigation. Conflicting laws repealed.

Pending litigation unaffected.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 270 **CHAPTER 322**

AN ACT DIRECTING THE STATE AUDITOR TO ISSUE AND THE STATE TREASURER TO PAY A PENSION WARRANT OF ONE HUNDRED AND FIFTY DOLLARS ($150.00) TO MRS. W. C. SAVAGE, DAUGHTER OF MRS. J. A. CAVINESS, DECEASED, A CONFEDERATE PENSIONER OF CHATHAM COUNTY.

Preamble: Death of Mrs. J. A. Caviness, Confederate pensioner.

WHEREAS, Mrs. J. A. Caviness, a Confederate Pensioner, of Chatham County, died on the tenth day of September, one thousand nine hundred and thirty-eight; and

WHEREAS, under the general pension law the State Auditor cannot issue and the State Treasurer cannot pay a warrant for the first semiannual pension issued to any pensioner who has died prior to September fifteenth of that year; and

Payment of doctor's bills and funeral expenses by daughter.

WHEREAS, Mrs. W. C. Savage, the daughter of Mrs. J. A. Caviness, has obligated herself for the burial and funeral expenses and doctor's bills of her mother exceeding one hundred and fifty dollars ($150.00): *Now, therefore,*

The General Assembly of North Carolina do enact:

Payment of $50 pension warrant to Mrs. W. C. Savage, authorized.

SECTION 1. That the State Auditor is hereby authorized and directed to issue and the State Treasurer to pay a pension warrant in the amount of fifty dollars ($50.00) to Mrs. W. C. Savage, daughter of Mrs. J. A. Caviness, (deceased Confederate Pensioner of Chatham County).

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 276 **CHAPTER 323**

AN ACT TO REGULATE CERTAIN PRACTICES AND TO IMPOSE A TAX UPON MANUFACTURERS OF CANDY AND SIMILAR PRODUCTS WHO CONSIGN SAME WITH INDIVIDUALS OR PERSONS OTHER THAN LICENSED WHOLESALE OR RETAIL MERCHANTS IN NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Sale, etc. of candy or other food not complying with Federal and State health and pure food laws, prohibited.

SECTION 1. That it shall be unlawful for any person, firm or corporation, or agent of any person, firm or corporation, to consign, sell, possess or use any candy or other product within this State that does not comply with all Federal and State

health and pure food laws in force and effect in North Carolina.

Manufacturer to pay tax upon products consigned to person, etc. other than licensed wholesale or retail merchant.

SEC. 2. That any manufacturer of candy or similar products, or the agent or such manufacturer, who consigns any such product to any person, firm or corporation other than a licensed wholesale or retail merchant in the State of North Carolina shall be liable for and pay to the State of North Carolina a tax of three per cent (3%) upon the gross retail sales price of merchandise so consigned and/or sold: *Provided* such manufacturers shall be entitled to a refund or credit for taxes paid on such consigned goods as are returned by the consignee to said manufacturers.

Refund on returned goods.

Regulations as to possession and sale.

SEC. 3. That it shall be unlawful for any person, firm or corporation other than a licensed wholesale or retail merchant in the State of North Carolina to consign, possess or use any article upon which the tax provided for in Section two preceding is payable, or for any consignee to sell such product, unless the manufacturer thereof is registered with the Commissioner of Revenue of the State of North Carolina for payment of said tax.

Commissioner of Revenue may require reports.

SEC. 4. The Commissioner of Revenue shall have authority to require a report, at such times as he may require, from every person, firm or corporation manufacturing candy or similar products, or from the agent of any such manufacturer, of the names and addresses of all consignors, other than licensed merchants, to whom consignment of such merchandise is made.

Violators deprived of legal redress.

SEC. 5. That the consignor shall not have the right to sue in any court of law in this State for the collection of monies resulting from the sale of merchandise sold in violation of this Act.

Violations made misdemeanor.

SEC. 6. Any person convicted for the violation of this Act shall be guilty of a misdemeanor and subject to a fine of not exceeding one hundred dollars ($100.00) or imprisonment for not exceeding thirty days or both fine and imprisonment in the discretion of the court.

Conflicting laws repealed.

SEC. 7. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 8. That this Act shall become effective from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 309 **CHAPTER 324**

AN ACT TO PREVENT THE INSTALLATION OR SALE OF USED PLUMBING FIXTURES UNTIL AFTER INSPECTION AND APPROVAL BY THE STATE BOARD OF HEALTH.

The General Assembly of North Carolina do enact:

Regulations for installation or sale of used plumbing fixtures.

SECTION 1. In order to prevent the spread of disease through the sale of unsanitary, inefficient or defective plumbing fixtures, and in order to promote the general health, it is hereby declared to be unlawful for any person, firm or corporation to sell or offer to sell, or install, or cause to be sold or installed, any second-hand or used bathroom fixtures, toilet fixtures or other plumbing fixtures until the same have been inspected and labeled in the manner hereinafter set forth, and unless at the time of such sale or installation it shall bear the label indicating that it has been inspected and approved by the State Board of Health.

Application to State Board of Health for inspection of fixtures.

SEC. 2. Any person, firm or corporation desiring to sell or install any second-hand or used bathroom fixtures, toilet fixtures or other plumbing fixtures, shall file with the State Board of Health, or some agent or representative thereof, on the form prescribed by the State Board of Health, an application for the inspection of the fixtures to be sold. Such application

Contents of application.

(among other things) shall contain a description and identification marks of each fixture and the sworn statement of the applicant as to the person, firm or corporation from whom said fixture was purchased, and as to the approximate date when the same was manufactured, and as to where and for how long the said fixture had been used prior to the date of such application.

Preparation of labels by State Board of Health.

SEC. 3. The State Board of Health shall cause to be prepared labels in the form prescribed by the State Board of Health, stating (among other things) that the fixture is a second-hand or used fixture, and stating further that said fixture has been inspected and approved, and providing a blank for the date of such approval and a blank for the approximate

Labels sold in books of 100.

date of the manufacture of the fixture. Such labels shall be assembled in books of one hundred; and such books shall be sold by the State Board of Health for the sum of twenty-five

Upon sale, book to be retained by State Board of Health for use in labeling fixtures of purchaser.

dollars ($25.00) per book. When a book has been so sold, the name of the person, firm or corporation buying the same shall be entered on the back thereof and the book shall be retained by the State Board of Health for use in labeling the fixtures or accessories of the purchaser. No application shall be received from any person, firm or corporation for a greater number of fixtures than the number of labels of the applicant held by the State Board of Health at the time of such application.

Inspection of fixtures by State Board upon receipt of application.

SEC. 4. Upon receiving an application for inspection, it shall be the duty of the State Board of Health, through such agents or representatives as shall be employed under the terms of this Act, to inspect the fixtures referred to in the application, for the purpose of determining whether they can be resold and reused without danger to public health. If the State Board of Health shall determine that any fixture can be used without danger to public health, it shall affix to each complete fixture a label of the applicant in the form prescribed in Section three of this Act and shall insert in said label the date of approval and the approximate date of the manufacture of the fixture.

Labeling of fixtures for resale.

Proceeds from sale of labels to be used in administration of Act.

SEC. 5. All proceeds received by the State Board of Health from the sale of the labels provided for in this Act shall be used by the State Board of Health in the administration of this Act; and the State Board of Health shall be under no duty to use any of its other funds for the administration of this Act.

Construction of Act.

SEC. 6. That Act shall not be construed to prevent any person, firm or corporation from using or installing on his own premises fixtures which have theretofore been used on other premises of such person, firm or corporation. This Act shall not apply to any person, firm or corporation not regularly engaged in the sale or installation of plumbing fixtures as a part of his or its business.

Violations made misdemeanor.

SEC. 7. Any person, firm or corporation who shall sell, offer for sale, install or cause to be sold or installed any used or second-hand bathroom fixtures, toilet fixtures or other plumbing fixtures except as provided in this Act, or who shall violate any provision or requirement of this Act, shall be guilty of a misdemeanor and upon conviction shall be fined the sum of one hundred dollars ($100.00) or imprisoned for not less than one nor more than three months. The sale of each separate fixture in violation of this Act shall constitute a separate offense.

Counties exempt.

SEC. 7½. *Provided*, that nothing contained in this Act shall apply to the counties of Anson, Alexander, Alleghany, Ashe, Avery, Bertie, Bladen, Buncombe, Burke, Cabarrus, Carteret, Caswell, Chatham, Cherokee, Clay, Cleveland, Columbus, Cumberland, Dare, Davidson, Davie, Edgecombe, Franklin, Gaston, Gates, Granville, Greene, Halifax, Henderson, Hyde, Jackson, Johnston, Jones, Macon, Madison, Martin, McDowell, Onslow, Pender, Perquimans, Polk, Randolph, Robeson, Rockingham, Sampson, Stanly, Stokes, Swain, Transylvania, Tyrell, Union, Warren, Washington, Watauga and Wilkes.

Conflicting laws repealed.

SEC. 8. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 9. This Act shall be in full force and effect from and after the date of its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 342 CHAPTER 325

AN ACT TO ESTABLISH A SANATORIUM IN EASTERN NORTH CAROLINA FOR THE TREATMENT OF TUBERCULOSIS.

The General Assembly of North Carolina do enact:

Establishment of "Eastern North Carolina Sanitorium for treatment of tuberculosis."

SECTION 1. That there shall be established in Eastern North Carolina, in the manner hereinafter set out, a sanatorium for the treatment of persons afflicted with tuberculosis, to be known as the "Eastern North Carolina Sanatorium for the Treatment of Tuberculosis."

Control of sanitorium by Board of Directors appointed by Governor.

SEC. 2. The control of said sanatorium authorized by the provisions of this Act shall be vested in the Board of Directors appointed by the Governor of North Carolina under the provisions of Chapter ninety-one of the Public Laws of nineteen hundred and thirty-five, as amended by Chapter one hundred thirty-eight of the Public Laws of nineteen hundred and thirty-five, and their successors in office.

Powers of directors as to erection, organization, and operation, etc. of sanitorium.

SEC. 3. The said Board of Directors are hereby given full power and authority, subject to the provisions of this Act, to erect, organize, operate, supervise, manage and maintain the said Eastern North Carolina Sanatorium for the Treatment of Tuberculosis, and there is hereby conferred upon the said board with respect to such sanatorium the same duties, powers, privileges, authority and obligations which the said board now has in connection with the operation and management of the North Carolina Sanatorium for the Treatment of Tuberculosis and the Western North Carolina Sanatorium for the Treatment of Tuberculosis, including the power to elect a superintendent and prescribe his duties, and to do all things needful in connection with the erection, operation, management and control of such sanatorium.

Acquisition of site.

Erection of buildings, etc.

Limitation on expenditures.

SEC. 4. That the said Board of Directors is hereby given full power and authority, subject to the provisions of this Act, to purchase a site for said sanatorium in Eastern North Carolina and to erect buildings thereon for the purposes of said sanatorium, and to provide such apparatus and equipment as may be necessary to establish said sanatorium and equip it for the reception and treatment of patients afflicted with tuberculosis: *Provided, however*, the total of such expenditures shall not exceed the sum of two hundred and fifty thousand ($250,000.00) dollars hereinafter appropriated.

By-laws and regulations.

SEC. 5. That the said Board of Directors shall make all by-laws and regulations for the government of said sanatorium as shall be necessary, among which regulations shall be such as shall make said sanatorium as nearly self-supporting as shall be consistent with the purposes of its creation.

State Treasurer to act as ex-officio treasurer of sanitorium.

SEC. 6. The Treasurer of the State of North Carolina shall be ex-officio treasurer of said sanatorium and shall keep all accounts of said sanatorium and pay out all monies to its credit in the way and manner as now or hereafter may be provided by law for the disbursement of funds of the State of North Carolina specifically allotted to any institution or for any specified purpose.

Appropriation for construction.

SEC. 7. That for the purpose of securing a site or sites and purchasing, renovating, remodeling, or erecting the necessary buildings for the Eastern North Carolina Sanatorium for the Treatment of Tuberculosis there is hereby appropriated the sum of two hundred and fifty thousand ($250,000.00) dollars, or so much thereof as may be necessary, as found by the Board of Directors, which is hereby denominated as a building fund, said sum to be raised by the issuance of bonds of the State of North Carolina in the sum of two hundred and fifty thousand ($250,000.00) dollars, or so much thereof as may be needed, as found by the Board of Directors. The said bonds so issued shall be in such denomination, form, maturities, and shall bear such interest rate and carry such provision for retirement thereof as may be determined by the Governor and Council of State: *Provided, however*, that the Governor and Council of State shall issue and sell such bonds only in the event that a grant of not less than forty-five per cent (45%) of the total cost of construction and equipment of such sanatorium shall be made available from the Federal Government. In the event of the sale of said bonds the proceeds from such sale shall be deposited with the Treasurer of the State of North Carolina for the credit of the building fund of the Eastern North Carolina Sanatorium for the Treatment of Tuberculosis, and shall be by the said treasurer disbursed from time to time as needed in connection with the purchase of such site and the building and equipment of said sanatorium.

Bond issue authorized.

Denomination, form, etc. of bonds.

Issuance and sale of bonds contingent upon availability of Federal grant.

Disbursement of bond proceeds.

Full faith, credit and taxing power of State pledged.

SEC. 8. That the full faith, credit and taxing power of the State are hereby pledged for the payment of the principal and interest of the bonds and notes herein authorized. All of said bonds and coupons shall be exempt from all state, county and municipal taxation or assessment, direct or indirect, general or special, whether imposed for the purpose of general revenue or otherwise, and the interest on said bonds shall not be subject to taxation as for income, nor shall said bonds or coupons be subject to taxation when constituting a part of the surplus of any bank, trust company, or other corporation. It shall be lawful for all executors, administrators, guardians and fiduciaries generally,

Bonds exempt from taxation or assessment.

Interest also exempt.

Investment in bonds by executors, administrators, etc.

and all sinking fund commissioners, to invest any monies in their hands in said bonds.

Date, rate of interest and maturity of bonds.

SEC. 9. The bonds herein authorized to be issued, subject to the provisions of this Act, shall bear such date or dates and such rate or rates of interest, not exceeding four per centum (4%) per annum, payable semiannually, and shall mature at such time or times, not exceeding thirty years from their date, or respective dates, as may be fixed by the Governor and Council of State.

Interest coupons.

Said bonds shall carry interest coupons which shall bear the signature of the State Treasurer, or a facsimile thereof, and said

Registration of bonds.

bonds shall be subject to registration and be signed and sealed as is now or may hereafter be provided by law for State bonds,

Form and denomination.

and the form and denomination thereof shall be such as the State Treasurer may determine in conformity with this Act. Subject to determination by the Governor and Council of State as to the manner in which said bonds shall be offered for sale, the State

Sale of bonds.

Treasurer is authorized to sell said bonds at one time or from time to time at the best price obtainable, but in no case for less than par and accrued interest.

Appointment of committee for selection of site for construction of sanitorium.

SEC. 10. That for the purpose of locating the site for such sanatorium the Governor shall within thirty days after the ratification of this Act appoint three persons not members of the Board of Directors and being residents of that portion of the State West of Sanatorium, North Carolina, who shall be named and denominated as a site committee, who shall investigate and recommend to said Board of Directors a site, with or without suitable buildings thereupon, for the Eastern North Carolina

Recommendations of committee to be final.

Sanatorium for the Treatment of Tuberculosis; and the recommendation of said site committee shall be final and binding upon the Board of Directors: *Provided, however,* that the final purchase of such site by said board shall be contingent upon the

Purchase of site contingent upon availability of Federal funds.

availability of Federal funds for the purpose of constructing said sanatorium as hereinbefore provided. The persons named as

Compensation of committee.

a site committee shall each receive for their services the sum of ten dollars ($10.00) per day and their actual expenses while engaged in investigating the location of a site. Said site committee shall make their recommendations to the Board of Directors on or before the first day of August, nineteen hundred and thirty-nine.

Appropriation for expenses of maintenance and operation of sanitorium.

SEC. 11. For the purpose of maintaining and defraying the running expenses of said sanatorium, there is hereby appropriated for the year nineteen hundred and thirty-nine-forty five thousand dollars ($5,000.00) and for the year nineteen hundred forty-forty-one the sum of five thousand dollars ($5,000.00), from the general funds of the State of North Carolina, and which shall be deposited with the Treasurer of the State of North Carolina and disbursed in the manner all other appropriations to State Institutions are disbursed.

SEC. 12. The said Board of Directors are empowered to receive or accept gifts or donations for the benefit of said sanatorium which shall be used by said board in their discretion for the purpose of carrying out the work for which the sanatorium is established. Gifts and donations.

SEC. 13. Each member of the Board of Directors while engaged in attending to the affairs of said sanatorium shall be entitled to receive as compensation the sum of five dollars ($5.00) per day, and in addition thereto the necessary traveling and hotel expenses of such member. Compensation of Directors.

SEC. 14. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 15. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 359 CHAPTER 326

AN ACT TO APPROPRIATE FUNDS FOR RESEARCH WORK AT THE AGRICULTURAL EXPERIMENT STATION.

The General Assembly of North Carolina do enact:

SECTION 1. That the sum of sixty thousand dollars ($60,000.00) is hereby appropriated out of the general fund of the State for the year one thousand nine hundred thirty-nine-one thousand nine hundred forty, and the sum of sixty thousand dollars ($60,000.00) for the year one thousand nine hundred forty-one thousand nine hundred forty-one, to the Agricultural Experiment Station of the North Carolina State College of Agriculture and Engineering of the University of North Carolina for the purpose of research along the following lines: Appropriation to Agricultural Experiment Station of N. C. State College, for research work.

	1939-1940	*1940-1941*
1. Apple research	7,500	7,500
2. Peach research	10,000	10,000
3. Peanut research	12,500	12,500
4. Vegetable research	10,000	10,000
5. Beef cattle and sheep research	10,000	10,000
6. Turkeys and poultry research	10,000	10,000
7. Acquisition of farm and dairy research in Piedmont	25,000	20,000

Specific appropriations enumerated.

SEC. 2. That these appropriations shall be subject to the provisions of the Executive Budget Act, Chapter one hundred of the Public Laws of one thousand nine hundred and twenty-nine, and Appropriations subject to Executive Budget Act and Personnel Act.

the provisions of the Personnel Act, Chapter two hundred seventy-seven, Public Laws of one thousand nine hundred and thirty-one, and Chapter forty-six of the Public Laws of one thousand nine hundred and thirty-three.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 366 CHAPTER 327

AN ACT TO PROVIDE FOR THE KEEPING OF CREAMERY AND MILK PRODUCTS PLANT RECORDS AND MAKING REPORTS THEREOF TO THE STATE DEPARTMENT OF AGRICULTURE.

The General Assembly of North Carolina do enact:

Annual reports to Dairy Division, Dept. of Agriculture, by creameries, milk distributing plants, etc.

SECTION 1. That every person, firm or corporation owning or operating a milk processing plant, creamery, milk distributing or cream buying station in this State, where milk or cream is received, shall file on or before April first of each year, upon blanks furnished, a report to the Dairy Division of the State Department of Agriculture, showing the amount of milk and cream received by such plants or stations during the calendar year preceding. The said report shall show the amount of butter, cheese, ice cream or other dairy products manufactured.

Records of purchases of cream.

Contents of records.

SEC. 2. That records of the purchase of cream shall be kept at each plant or station for a period of six months from the date of purchase, and shall show the date of purchase, the net pounds of cream purchased, the butterfat tests, the price of butterfat, and the amount paid therefor, in such manner as may be required on the report blanks provided. When payment for cream is made in cash, receipts of such payments shall be kept with the records, otherwise canceled checks or facsimile impressions shall be kept as receipts with records. Such records shall be available for inspection by any authorized representative of the Commissioner of Agriculture.

Inspection of records authorized.

Individual plant records treated as confidential.

SEC. 3. That any individual plant records shall be treated as confidential by anyone handling them and such individual records shall not be published or made accessible to any unauthorized person or representative.

SEC. 4. That any person, firm or corporation owning or operating a creamery, cheese plant, condensed milk plant, ice cream plant, milk depot, or milk distributing plant, or milk or cream buying station, failing to comply with the provisions of this section shall be deemed guilty of a misdemeanor and, upon conviction thereof, shall be fined or imprisoned in the discretion of the court.

Failure to comply with provisions of Act made misdemeanor.

SEC. 5. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 6. That this Act shall be in full force and effect from and after July first, one thousand nine hundred thirty-nine.

Effective date.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 382 **CHAPTER 328**

AN ACT TO PROVIDE A MEMORIAL TO COLONEL BENJAMIN CLEVELAND, AN EMINENT AND HEROIC NORTH CAROLINIAN.

WHEREAS, Colonel Benjamin Cleveland rendered valiant and distinguished service in the defeat and capture of the British at the Battle of Kings Mountain on October seventh, one thousand seven hundred eighty, where the tides of fortune were for the first time turned in favor of American Liberty; and

Preamble: Distinguished military service of Colonel Benjamin Cleveland.

WHEREAS, the General Assembly of North Carolina, meeting at Halifax from January twenty-seventh, one thousand seven hundred eighty-one, voted to Colonel Benjamin Cleveland a letter of thanks for his outstanding service to his State and Country, and awarded to him an elegant mounted sword; and

Resolution of General Assembly of 1871 to award sword to Colonel Cleveland.

WHEREAS, this gift and token of appreciation and esteem was not then, and has not since been, presented or delivered in accordance with the Resolution of the General Assembly,

Sword has never been presented.

The General Assembly of North Carolina do enact:

SECTION 1. That an elegant mounted sword shall be presented to the family of Colonel Benjamin Cleveland in the honor and to the memory of that distinguished North Carolinian. Said sword shall be placed in custody of Cleveland County. The County shall, as custodian, see that at all times this sword shall be displayed in the courthouse of the county, in the public library, or in some other prominent and public place.

Sword to be presented to family of Colonel Cleveland as memorial.

Cleveland County to act as custodian.

Committee for selection of memorial.

SEC. 2. This memorial shall be selected by a committee composed of the Senator and Member of the House of Representatives, the Chairman of the Board of County Commissioners, and the County Historian of Cleveland County. It shall be presented to the family of Colonel Cleveland, in the care of the County of Cleveland, by this committee at the ceremonies to be held in the fall of one thousand nine hundred forty, in celebration of the centennial anniversary of the founding of Cleveland County.

Presentation of memorial.

Appropriation.

SEC. 3. There is hereby appropriated for the purposes of this memorial the sum of not more than fifty ($50.00) dollars, which shall be paid by the Treasurer of the State out of the general fund to the committee herein appointed upon demand and for the purpose specified.

Conflicting laws repealed.

SEC. 4. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 5. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 387 CHAPTER 329

AN ACT EXEMPTING FROM THE PROVISIONS OF THE PUBLIC LAWS RELATING TO INSPECTION OF MEATS FEDERALLY INSPECTED MEAT PACKING PLANTS AND SLAUGHTER HOUSES AND THE PERSONS, FIRMS OR CORPORATIONS ENGAGED IN THE BUSINESS OF OPERATING SUCH MEAT PACKING PLANTS AND SLAUGHTER HOUSES.

The General Assembly of North Carolina do enact:

Slaughter houses, etc. under Federal inspection, exempt from provisions of State inspection laws.

SECTION 1. That the provisions of Chapter one hundred eighty-one of the Public Laws of one thousand nine hundred twenty-five and of Chapter eleven of the Public Laws, extra session, of one thousand nine hundred twenty-four, as amended, shall not be applicable to any slaughter house or meat packing plant, or any person, firm or corporation engaged in the business of the operation thereof, where such slaughter house or meat packing plant is operated under Federal Inspection pursuant to the provisions of the Meat Inspection Act of the United States, approved March fourth, one thousand nine hundred seven, as amended.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 393 CHAPTER 330

AN ACT TO AMEND SECTION TWO THOUSAND TWO HUNDRED EIGHTY-SIX OF CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO APPOINTMENT OF GUARDIANS.

The General Assembly of North Carolina do enact:

SECTION 1. That two thousand two hundred eighty-six of Consolidated Statutes of North Carolina be amended by inserting after the word "Columbia" in the fifth line thereof, and before the words "the certificate", the following, to-wit: "or in any hospital licensed and supervised by the State of North Carolina."

C. S. 2286, amended as to hospitals, whose certificates of insanity furnish basis for appointment of guardian.

SEC. 2. By adding at the end of Section two thousand two hundred eighty-six of Consolidated Statutes the following paragraph, to-wit: "Any guardian or trustee heretofore appointed under the provisions of this section on certificate issued by the superintendent of any hospital licensed and supervised by the State of North Carolina, and any and all proceedings based thereon are hereby validated."

Section further amended to validate such appointments heretofore made.

SEC. 3. This Act to be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 963 CHAPTER 331

AN ACT TO APPOINT MEMBERS OF THE BOARD OF EDUCATION IN BLADEN COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That the term of the members of the County Board of Education of Bladen County, as it is now constituted, shall expire on the first Monday in April, one thousand nine hundred thirty-nine, and the following persons are hereby appointed members of the County Board of Education for Bladen County and shall serve for the term of years set out after their respective names from and after the first Monday in April, one thousand nine hundred thirty-nine:

Board of Education, Bladen County.

Homer L. Tatum for a term of four years.

Dr. S. S. Huchison for a term of two years.

J. Neal Clark for a term of four years.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of April, 1939.

S. B. 395 **CHAPTER 332**

AN ACT TO AMEND CHAPTER EIGHTY-SIX OF THE PUBLIC LAWS OF THE EXTRA SESSION, ONE THOUSAND NINE HUNDRED TWENTY-FOUR, AS AMENDED BY CHAPTER TWO HUNDRED NINETY-ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-FIVE, RELATIVE TO THE ADMISSION OF INDIGENT PATIENTS TO CERTAIN STATE HOSPITALS.

The General Assembly of North Carolina do enact:

Ch. 86, Public Laws, Extra Session, 1924, amended.

SECTION 1. That Section one of Chapter eighty-six of the Public Laws, extra session, one thousand nine hundred twenty-four, as amended by Chapter two hundred ninety-one of the Public Laws of one thousand nine hundred twenty-five, be further amended by adding a proviso at the end thereof to read as follows: "*Provided,* that nothing herein contained shall permit the admission of indigent patients to the North Carolina Sanitorium for the treatment of tuberculosis, established by Chapter nine hundred sixty-four of the Public Laws of one thousand nine hundred and seven, as amended, nor to the North Carolina Sanitorium for the treatment of tuberculosis, established under the provisions of Chapter ninety-one of the Public Laws of one thousand nine hundred thirty-five, unless and until the person applying for admission to either of said institutions shall have acquired a settlement in this State, and no settlement shall be deemed to have been acquired by such applicant until he or she has resided continuously within this State for a period of three years prior to the application for admission thereto."

Admission of indigent patients to the North Carolina Sanitorium for treatment of tuberculosis.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 397 **CHAPTER 333**

AN ACT TO CORRECT A MANIFEST ERROR IN CERTAIN PREVIOUS REVENUE ACTS AND TO AUTHORIZE ADJUSTMENT OF ASSESSMENTS MADE THEREUNDER.

Preamble: Error of omission in Sec. 208, Schedule C, Franchise Tax, of certain Revenue Acts.

WHEREAS, by evident inadvertance and mistake, the words "or property situated within this State" which had theretofore appeared in Section two hundred eight of the Revenue Acts were omitted from the Revenue Acts effective during the years hereinafter referred to; and

Discovery of omission after adjournment of 1937 General Assembly.

WHEREAS, the absence of this phrase was not discovered until after the adjournment of the General Assembly of one thousand nine hundred thirty-seven; and

Returns by taxpayers in accordance with law as previously written.

WHEREAS, some taxpayers in said years, through inadvertance and mistake, were furnished blank forms for returns which were in accord with and quoted the law as previously written, and returns were in such instances made on this basis; and

WHEREAS, such inadvertance on the part of both the Insurance Department and the taxpayer was natural and understandable, and but for this inadvertance the taxpayers could easily, during the period in which said returns were due, have protected themselves by slightly readjusting their investments: *Now, therefore,*

The General Assembly of North Carolina do enact:

Insurance Commissioner authorized to make certain adjustments with reference to 1934-1937 franchise taxes on basis of corrected provisions.

SECTION 1. That whenever the Insurance Commissioner is satisfied of the good faith of the taxpayer, and that his return for either of the years one thousand nine hundred thirty-four, one thousand nine hundred thirty-five, one thousand nine hundred thirty-six and one thousand nine hundred thirty-seven was made on blanks furnished by the department itself which erroneously included said phrase, and further, that the taxpayer's return shows a compliance with the law as previously and as now written in this particular, the said commissioner be, and he is hereby, in such case, authorized and empowered to adjust and settle the taxes against such taxpayer for said year or years exactly as if said phrase had been included in said Acts, and upon payment to the department by the taxpayer of the amount which would be so chargeable against him had said

phrase been included, the taxpayer shall be relieved of further liability therefor.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act in so far as said conflict exists are hereby repealed.

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

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 398 **CHAPTER 334**

AN ACT TO APPROPRIATE FUNDS FOR EACH YEAR OF THE BIENNIUM ONE THOUSAND NINE HUNDRED THIRTY-NINE-ONE THOUSAND NINE HUNDRED FORTY, ONE THOUSAND NINE HUNDRED FORTY-ONE THOUSAND NINE HUNDRED FORTY-ONE, FOR THE ADMINISTRATION, OPERATION, DEVELOPMENT AND MAINTENANCE OF STATE-OWNED PARKS.

Preamble: Number of State-owned parks not open to public.

WHEREAS, there are a number of State-owned parks in this State which are not now open to the public, for the reason that there has been insufficient funds appropriated to open, operate and maintain the same; and

Withdrawal of Federal aid unless funds are appropriated.

WHEREAS, unless an appropriation is immediately made available for this use, Federal aid, in the way of construction and development thereof, will be withdrawn: *Now, therefore,*

The General Assembly of North Carolina do enact:

Additional appropriations to Dept. of Conservation and Development for maintenance and development for State-owned parks.

SECTION 1. That in addition to all other appropriations which are or hereafter may be made to the Department of Conservation and Development, there is hereby appropriated from the general fund of this State, for the purpose of the administration, operation, development and maintenance of State-owned parks, the sum of thirty-five thousand ($35,000.00) dollars for the year one thousand nine hundred thirty-nine-one thousand nine hundred forty of the biennium; and, in addition thereto, the sum of thirty-five thousand ($35,000.00) dollars for said purposes for the year one thousand nine hundred forty - one thousand nine hundred forty-one.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 409 **CHAPTER 335**

AN ACT PERMITTING THE GOVERNOR, IN HIS DISCRETION, TO FIX THE COMPENSATION OF THE COMMISSIONER OF PAROLES.

The General Assembly of North Carolina do enact:

SECTION 1. The Governor of North Carolina is hereby authorized and empowered, in his discretion, to fix the salary of the Commissioner of Paroles.

Governor authorized to fix salary of Commissioner of Paroles.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 415 **CHAPTER 336**

AN ACT TO AMEND CHAPTER FOUR HUNDRED FORTY-ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE RELATING TO CERTAIN SPECIAL TAXES FOR THE EXPENSES OF QUADRENNIAL VALUATION AND OTHER PURPOSES.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter four hundred forty-one of the Public Laws of one thousand nine hundred thirty-one be amended by inserting in line two, after the word "of" and before the word "Duplin", the word "Anson".

Ch. 441, Public Laws, 1931, authorizing special tax levies, amended to apply to Anson County.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 417 **CHAPTER 337**

AN ACT TO AMEND CHAPTER THIRTY OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, RELATING TO THE DRY CLEANERS COMMISSION, SO AS TO EXCLUDE BURKE, HAYWOOD, FORSYTH AND HARNETT COUNTIES THEREFROM.

The General Assembly of North Carolina do enact:

Ch. 30, Public Laws, 1937, relating to Dry Cleaners Commission, amended to exempt certain designated counties.

SECTION 1. That Chapter thirty of the Public Laws of one thousand nine hundred and thirty-seven, be, and the same is hereby, amended by excluding Haywood, Forsyth, Moore, Madison, Davie, Northampton, Union, Mitchell, Wilkes, Alamance, Caswell, Person, Macon and Harnett Counties from the provisions of said chapter: *Provided* that no person, firm or corporation engaged in the business, as defined in Chapter thirty, Public Laws of one thousand nine hundred and thirty-seven, in any of the counties exempted from said Act, shall be permitted to solicit or in any manner engage in said business in a non-exempt county without first being licensed by the Dry Cleaners Commission to so do.

License required of dry cleaners, etc. operating in exempted counties, to solicit business in non-exempt county.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 418 **CHAPTER 338**

AN ACT TO FIX THE SALARY OF THE COMMISSIONER OF AGRICULTURE TO MAKE IT EQUAL TO THAT OF CERTAIN OTHER CONSTITUTIONAL OFFICERS.

The General Assembly of North Carolina do enact:

Compensation of Commissioner of Agriculture.

SECTION 1. That the compensation of the Commissioner of Agriculture shall be six thousand dollars ($6,000.00) per annum.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Effective date.

SEC. 3. That this Act shall be in full force and effect from and after the first day of April, one thousand nine hundred thirty-nine.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 425 **CHAPTER 339**

AN ACT TO AMEND SECTION FOUR THOUSAND ONE HUNDRED SIX OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA, SO AS TO ALLOW A JURY SUMMONED OR APPOINTED TO ALLOT DOWER IN THE COUNTY WHERE THE DOWER PROCEEDING IS PENDING TO GO UPON, VIEW, ASSESS AND ALLOT LAND LYING IN ANY OTHER COUNTY OR COUNTIES, WHEN AGREEABLE TO AND CONVENIENT TO SAID JURY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section four thousand one hundred six of the Consolidated Statutes of North Carolina, be and the same is hereby amended, by adding at the end of the second paragraph thereof the following: But if agreeable to and convenient to the jury summoned or appointed, as the case may be, in the county where the proceeding is pending, for the allotment of dower, said jury may go upon, view and assign and allot the land which lies in any other county or counties; and when so viewed, assessed and allotted, if it or any part of it be allotted as dower, their acts shall be valid and their allotment of dower be as valid, as if all of the land of the deceased husband lay in the county where the proceeding was brought and pending, upon properly certified copy of such allotment being filed and recorded in such other county or counties, other than the county in which the original proceedings were instituted, in which lands acted upon do lie.

C. S. 4106, as to allotment of widow's dower, amended.

Allotment of dower in lands lying in counties other than where proceedings brought.

Certified copy of allotment recorded in each county.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 431 **CHAPTER 340**

AN ACT TO AMEND COMMITTEE SUBSTITUTE FOR HOUSE BILL NUMBER FOURTEEN, THE BUDGET APPROPRIATION BILL, AS TO APPROPRIATIONS FOR ATTORNEY GENERAL AND SECRETARY OF STATE.

H. B. 14, Ch. 185, Public Laws, 1939, Appropriations Act, amended to provide for transfer to Secretary of State appropriation made therein for Legislative Reference Librarian.

The General Assembly of North Carolina do enact:

SECTION 1. That House Bill Number fourteen, entitled "An Act to make appropriations for maintenance of the State de-

partments, bureaus, institutions and agencies, and for other purposes", be, and the same hereby is, amended so as to provide for a transfer to the Secretary of State all that part of the appropriation made therein to the Attorney General for expenditure by the Legislative Reference Librarian, and the Budget Bureau is authorized and empowered to make said transfer. And said Act is further amended so as to add to the remainder of the appropriation made for the Attorney General for each year of the biennium the sum of ten thousand dollars ($10,000), which additional appropriation is made by reason of the Act creating the State Department of Justice.

Act further amended to provide additional appropriation to Attorney General for use of Department of Justice.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 434 **CHAPTER 341**

AN ACT TO AMEND CHAPTER THREE HUNDRED AND NINETY-THREE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN SO THAT CERTAIN RESTRICTIONS IN THE DISTRIBUTION OF FOREST TREE SEEDLINGS TO FARMERS IN SOIL CONSERVATION DISTRICTS MAY BE REMOVED.

The General Assembly of North Carolina do enact:

Ch. 393, Public Laws, 1937, amended to repeal requirement that forest tree seedlings for soil conservation districts be obtained from State Forest Nursery.

SECTION 1. That paragraph seven of Section eight of Chapter three hundred and ninety-three of the Public Laws of one thousand nine hundred thirty-seven be and is herewith amended by cutting out the exception contained in the last four lines of said section beginning with the word "except" and ending with the word "Agriculture".

Conflicting laws repealed.

SEC. 2. All laws or parts of laws in conflict with this Act are hereby repealed.

SEC. 3. This law shall be in effect on and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 448 **CHAPTER 342**

AN ACT TO AUTHORIZE ADDITIONAL TERM OF COURT FOR STOKES COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That there shall be and is hereby established and authorized a term of court to continue for one week in Stokes County, beginning the first Monday in January of each year for the trial of criminal causes only. Additional term Criminal Court, Stokes County.

SEC. 2. That there shall be jurors, including a grand jury, provided for said January term of court.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 452 **CHAPTER 343**

AN ACT TO AUTHORIZE COUNTY COMMISSIONERS TO BUY AND HOLD REAL ESTATE AND TO SELL, LEASE, OR OTHERWISE DISPOSE OF SAME.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one thousand two hundred ninety-seven of the Consolidated Statutes of North Carolina be, and the same is hereby, amended by adding at the end thereof a new section to be designated as "forty-four" as follows: C. S. 1297, amended.

"To purchase or acquire any real estate within the limits of the county that may be desired by the County Commissioners, and to sell, lease, or otherwise dispose of same, to any person, firm or corporation, upon such terms and conditions as may seem just and proper to the Board of County Commissioners." County Commissioners, Anson County, authorized to buy, sell or otherwise dispose of real property.

SEC. 2. That this Act shall apply to Anson County only.

SEC. 3. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 456 CHAPTER 344

AN ACT TO AUTHORIZE THE OFFICERS AND ENLISTED MEN OF THE NORTH CAROLINA NATIONAL GUARD TO WEAR SERVICE MEDALS TO BE PRESCRIBED BY THE STATE OF NORTH CAROLINA AS A PART OF THE REGULATION UNIFORM.

Preamble: National Guard officers and enlisted men authorized by regulations to wear State service medals.

WHEREAS, the provisions of paragraph six, National Guard regulations number seventy-seven, issued by the War Department under authority of the National Defense Act authorizes officers and enlisted men of the National Guard to wear distinctive State service medals as a part of the regulation uniform: *Now, therefore,*

The General Assembly of North Carolina do enact:

North Carolina National Guard authorized to wear service medals.

SECTION 1. The officers and enlisted men of the North Carolina National Guard be, and they are hereby authorized to wear, as a part of the official uniform service medals to be selected as herein prescribed.

Appointment of committee for selection of suitable State service medals.

SEC. 2. The Adjutant General of the State of North Carolina is hereby authorized and directed to appoint a committee from the officer personnel of the North Carolina National Guard to be composed of three regimental commanders, and two other officers of the National Guard, to act as a committee to select suitable State service medals to be worn by the officers and enlisted men of the North Carolina National Guard as a part of the regulation uniform.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 464 CHAPTER 345

AN ACT TO AUTHORIZE AND EMPOWER THE SECRETARY OF STATE TO DISPOSE OF CERTAIN DAMAGED AND UNSALEABLE BOOKS NOW IN HIS POSSESSION.

Preamble: Certain State publications stored in warehouses unfit for sale by reason of damaged condition.

WHEREAS, there are stored in the warehouses of the State of North Carolina a number of North Carolina Supreme Reports, House and Senate Journals and Public Laws of various years which by reason of their damaged condition and deterioration are now unfit for sale: *Now, therefore*

The General Assembly of North Carolina do enact:

SECTION 1. That the Secretary of State is hereby authorized and empowered to dispose of such damaged and unsaleable North Carolina Supreme Court Reports, House and Senate Journals and Public Laws of various years at a price to be determined by the Secretary of State, the Supreme Court Reporter and the Marshall-Librarian of the Supreme Court.

Secretary of State authorized to dispose of damaged and unsaleable publications.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 465 **CHAPTER 346**

AN ACT TO AMEND CHAPTER TWO HUNDRED AND SEVENTY-THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-NINE RELATING TO THE PUNISHMENT OF MAKERS OF WORTHLESS CHECKS MAKING THE SAME APPLICABLE TO GRANVILLE COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section two of Chapter two hundred and seventy-three of the Public Laws of one thousand nine hundred and twenty-nine, be and the same is hereby amended by adding after the words "Haywood County" in line nine of said section the words "Granville County."

Ch. 273, Public Laws, 1929, providing penalty for giving worthless checks, amended to apply to Granville County.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 475 **CHAPTER 347**

AN ACT TO AMEND SECTION ONE THOUSAND FIVE HUNDRED SEVENTY-TWO OF THE CONSOLIDATED STATUTES AS APPLICABLE TO TRIALS IN RECORDER'S COURT IN CABARRUS COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1572, amended.

SECTION 1. That Section one thousand five hundred seventy-two of the Consolidated Statutes, as amended, be, and the same hereby is, amended by changing the period at the end of said section to a colon and adding the following: *"Provided, further,* that in Cabarrus County the prosecuting attorney or the defendant in any criminal action may demand and have a trial by jury. If a jury trial is demanded, the recorder shall continue the cause until a day to be set by him for jury trials, which day shall be one day in each month, on which shall be begun jury trials which shall continue until such cases shall be disposed of. He shall cause a jury of not less than twelve jurors to be drawn for each time jury trials are set for hearing, from which said panel shall be selected the juries to try all cases pending wherein jury trials have been demanded. In the event the panel is exhausted, tales jurors may be summoned as in a Superior Court, and six men shall constitute a lawful jury. All jurors in the recorder's court shall receive the same compensation as that paid to jurors in Cabarrus Superior Court. When any jury trial is demanded by the defendant in a criminal action, such defendant shall deposit with the clerk of said court the sum of ten dollars, which sum shall not be refunded, regardless of the result of the trial, and all sums so deposited shall be paid into the general fund of the county. In all jury trials the recorder shall charge the jury as required in criminal actions in the Superior Court, as provided by Consolidated Statutes, Section five hundred sixty-four. In Cabarrus County sessions of said court may be held at the county seat and/or at such other place or places in said county as may be designated by a resolution of the board of commissioners of said county.

Trial by jury, Recorder's Court, Cabarrus County.

Compensation of jurors.

Deposit required.

Place for holding sessions of Court.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 478 **CHAPTER 348**

AN ACT TO AMEND CHAPTER ONE HUNDRED ONE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE PRESCRIBING THE PENALTY FOR FAILURE TO COMPLY WITH SAID LAW AS TO PAYMENT OF WAREHOUSEMEN FOR TOBACCO SOLD ON WAREHOUSE FLOOR.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter one hundred one of the Public Laws of one thousand nine hundred thirty-one, and Section one thereof, be, and the same hereby is, amended by adding at the end of said section the following: "Every person, firm or corporation violating the provisions hereof shall, in addition to any and all civil liability which may arise by law, be guilty of a misdemeanor and, upon conviction thereof, shall be punishable by fine not exceeding one hundred dollars or imprisonment not exceeding thirty days, or both, in the discretion of the court."

Ch. 101, Public Laws, 1931, as to payment for tobacco sold on warehouse floor, amended to make violations thereof a misdemeanor.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 493 **CHAPTER 349**

AN ACT TO AMEND CHAPTER FOUR HUNDRED FIFTEEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATIVE TO THE SALARY OF THE COMMISSIONER OF LABOR.

The General Assembly of North Carolina do enact:

SECTION 1. That Section one of Chapter four hundred fifteen of the Public Laws of one thousand nine hundred thirty-seven, be, and the same is hereby amended by striking out in line two thereof the words "five thousand two hundred fifty dollars ($5,250.00)", and inserting in lieu thereof the words "six thousand dollars ($6,000.00)".

Ch. 415, Public Laws, 1937, amended to increase compensation of Commissioner of Labor.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 500 CHAPTER 350

AN ACT TO REPEAL SECTION FOUR SUBSECTION (a) OF CHAPTER FOUR HUNDRED SIXTY-NINE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE, AND TO DECLARE PITT COUNTY DRAINAGE DISTRICT NUMBER TWO SOLVENT AND TO APPOINT DRAINAGE COMMISSIONERS FOR SAID DISTRICT.

Preamble: Audit affairs of Pitt County Drainage District Number Two, authorized in 1935.

WHEREAS, the General Assembly of North Carolina, session one thousand nine hundred thirty-five, enacted Public Laws, Chapter four hundred sixty-nine, therein authorizing the Board of County Commissioners of Pitt County to cause an audit to be made of the affairs of Pitt County Drainage District Number two, created and existing under authority of Article three, Chapter ninety-four, Consolidated Statutes of North Carolina and amendments thereto; and

Insolvency of District disclosed by audit.

WHEREAS, the said Board of County Commissioners has caused such audit to be made which disclosed that said drainage district was insolvent which insolvency continued for a period of more than sixty days from the maturity dates of the obligations of said district and upon completion of said audit, the said Board of County Commissioners took over the assets of said district and the management thereof in lieu of the Board of Drainage Commissioners for said district and has administered all of the affairs of said district from the date of said audit and is continuing to do so; and

Assumption by County Commissioners of administration of affairs of District.

District now in solvent condition.

WHEREAS, audit of the present financial conditions now indicates that said drainage district is solvent, but unpaid assessments are to be collected, which when collected will pay all outstanding obligations against the district and leave a surplus of approximately five thousand dollars: *Now, therefore,*

The General Assembly of North Carolina do enact:

Sec. 4 (a), Ch. 469, Public Laws, 1935, authorizing management by Commissioners, repealed.

SECTION 1. That Section four Subsection (a) of Chapter four hundred sixty-nine of Public Laws of one thousand nine hundred thirty-five, be and the same is hereby repealed.

Management of District by Drainage Commissioners.

SEC. 2. That Pitt County Drainage District Number two, from and after the ratification of this Act shall be out from under the control of the County Commissioners of Pitt County and be placed in the hands of Drainage Commissioners under the same rules and regulations as provided in the Act creating said district.

SEC. 3. That the Clerk of the Superior Court of Pitt County shall immediately upon the ratification of this Act call an election as provided by law for the election of three commissioners to be known as the Drainage Commissioners of the said district. That said commissioners shall within ten days from their election and qualification proceed to procure estimate or estimates for the shrubbing, cleaning and extension of said canal so as to provide for adequate drainage for Pitt County Drainage District Number two. That the said commissioners shall be elected as follows: One to serve for three years, one to serve for two years, and one to serve for one year.

Election of Drainage Commissioners.

Duties.

Terms of office.

SEC. 4. That annually from the date of the election herein referred to, unless such a date fall on Sunday or a legal holiday and then the day following such Sunday or legal holiday, the land owner in said district shall elect one commissioner who shall serve for three years.

Provision for subsequent elections.

SEC. 5. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 6. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 6 CHAPTER 351

AN ACT TO AMEND CHAPTER FOUR HUNDRED AND SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN, RELATIVE TO HEADLIGHTS ON MOTOR VEHICLES.

The General Assembly of North Carolina do enact:

SECTION 1. That Subsection (a) of Section ninety-four of Chapter four hundred and seven of the Public Laws of one thousand nine hundred and thirty-seven be amended by adding after the word "but" in line six and before the word "shall" the following:

Sec. 94, Ch. 407, Public Laws, 1937, Uniform Motor Vehicle Act, amended.

"Any person operating a motor vehicle upon the highways, when meeting another vehicle, shall so control the lights of the vehicle operated by him by shifting, depressing, deflecting, tilting, or dimming the headlight beams in such manner as".

Operators required to tilt or dim headlights upon meeting another vehicle.

"SEC. 2. Conviction of the offense of failure to shift, depress, deflect, tilt or dim the beams of the head lamps whenever a motor vehicle meets another vehicle on the highways of this State shall not be cause for the suspension or revocation of the operator's or chauffeur's license under the terms of Chapter fifty-two of Public Laws of one thousand nine hundred thirty-five."

Conviction of offense not cause for suspension or revocation of license.

Penalty for violations.

"SEC. 3. Any person operating a motor vehicle on the highways of this State, who shall fail to shift, depress, deflect, tilt or dim the beams of the head lamps thereon whenever another vehicle is met on such highways shall, upon conviction thereof, be fined not more than ten ($10.00) dollars or imprisoned for not more than ten (10) days."

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 107 CHAPTER 352

AN ACT TO REPEAL SECTIONS SIX THOUSAND FIFTY-FIVE (a26) AND SIX THOUSAND FIFTY-FIVE (a27) OF THE CONSOLIDATED STATUTES IN SO FAR AS SAID SECTIONS RELATE TO MARKERS AND ASSISTANCE TO VOTERS IN PRIMARIES AND PROVIDING FOR ASSISTANCE TO HANDICAPPED VOTERS IN PRIMARIES.

The General Assembly of North Carolina do enact:

C. S., Sections 6055 (a26) and (a27), relating to assistance to voters in marking ballots, amended.

SECTION 1. That Section six thousand fifty-five (a26) and Section six thousand fifty-five (a27) of the Consolidated Statutes of North Carolina be, and the same are hereby repealed in so far as said sections apply to primaries, and in lieu thereof Section two hereof be, and the same is hereby enacted.

Assistance to disabled or illiterate, by near relative.

SEC. 2. Any qualified voter entitled to vote in any primary, but who by reason of any physical disability or illiteracy is unable to mark his ballot may upon statement to the registrar of his incapacity and upon his request be aided by a near relative (husband or wife, brother or sister, parent or child, grandparent or grandchild), who shall be admitted to the booth with such voter, or if no near relative is present such voter may call to his assistance any other voter of his precinct who has not given aid to another voter, and who shall likewise be admitted to the booth with such voter: *Provided* that if the voter needs and is entitled to the assistance as herein provided for, and there is no near relative present, or anyone else authorized hereunder to give assistance, the voter may call to his assistance the registrar or one of the judges of the election: *Provided, further,* that any voter may upon his request be accompanied into the voting booth by a near relative (as above defined), and obtain such assistance from said member of the family as he may desire whether disabled

Assistance by other voter in absence of relative.

By registrar or judge of election.

Assistance by near relative upon request.

or not. It shall be unlawful for any person to give, receive, or permit assistance in the voting booth during any primary to any voter otherwise than as is herein provided for.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 491 CHAPTER 353

AN ACT TO AMEND SECTION SEVEN THOUSAND ONE HUNDRED ELEVEN OF THE CONSOLIDATED STATUTES, VOLUME TWO, ONE THOUSAND NINE HUNDRED NINETEEN, RELATIVE TO FEES FOR BIRTH CERTIFICATES.

The General Assembly of North Carolina do enact:

SECTION 1. That Section seven thousand one hundred eleven (a) as amended of the Consolidated Statutes, Volume two, one thousand nine hundred nineteen, be amended by adding a proviso at the end thereof to read as follows: "*Provided,* that the State registrar shall furnish to any American Legion Post in this State, upon application therefor in connection with Junior Baseball, certified copies of birth certificates, without the payment of the fees prescribed in this section."

C. S., 1919, Vol. 2, Sec. 7111 (a), as to fees for birth certificates, amended to provide free certificates to Legion Posts in certain instances.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 755 CHAPTER 354

AN ACT TO AMEND SECTIONS FOUR THOUSAND SEVEN HUNDRED TWENTY-SIX AND FOUR THOUSAND SEVEN HUNDRED AND TWENTY-SEVEN OF THE CONSOLIDATED STATUTES RELATING TO COMMERCIAL FEEDING STUFFS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section four thousand seven hundred twenty-six of the Consolidated Statutes be and the same is hereby amended by striking out the words "live stock and poultry" in line

C. S. 4726, amended to redefine "concentrated commercial feeding stuffs."

three of said section and inserting in lieu thereof the words "live stock, poultry and other animals".

C. S. 4727, amended to require annual registration.

SEC. 2. That Section four thousand seven hundred twenty-seven of the Consolidated Statutes be and the same is hereby amended by adding at the end of said section the following: "For each and every statement so filed, there shall be paid to the Commissioner of Agriculture an annual registration fee of one dollar ($1.00), payable at the time of registration and thereafter on or before the last day of December of each year."

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 766 CHAPTER 355

AN ACT AUTHORIZING THE INSURANCE COMMISSIONER TO DISTRIBUTE THE PROCEEDS OF A BOND TO CLAIMANTS OF THE FUNERAL BENEFIT ASSOCIATION OF THE UNITED STATES.

Preamble: Deposit of U. S. Liberty Bond with Insurance Commissioner by Funeral Benefit Association of U. S.

WHEREAS, the Funeral Benefit Association of the United States, Philadelphia, Pennsylvania, deposited with the Insurance Commissioner on the thirty-first day of December, one thousand nine hundred twenty-four, a United States Liberty Bond Number forty-one thousand nine hundred eighteen of the Fourth Liberty Loan, in the amount of five thousand dollars, as required by the laws of North Carolina; and,

Permanent receivers appointed for Association in 1936.

WHEREAS, on December fifteenth, one thousand nine hundred thirty-six, by decree of the Common Pleas Court of Philadelphia County Pennsylvania, permanent receivers were appointed for the Funeral Benefit Association of the United States; and,

Request of receivers for surrender of Bond for distribution as assets.

WHEREAS, said receivers have determined the balances due claimants in North Carolina, and are requesting the Insurance Commissioner to deliver to them the five thousand dollar bond for distribution as assets of said association; *Now, therefore,*

Protection to North Carolina claimants.

In order to protect the North Carolina Claimants of the Funeral Benefit Association of the United States to the fullest extent, as required by Consolidated Statutes, Section six thousand three hundred thirteen, by making the five thousand dollar bond available for the payment of their claims,

The General Assembly of North Carolina do enact:

SECTION 1. That the Insurance Commissioner is hereby authorized, empowered and directed to sell the above Liberty Loan Bond in the amount of five thousand dollars, and distribute the proceeds to the North Carolina claimants on a pro-rata basis.

Sale of bond and distribution of proceeds to North Carolina claimants authorized.

SEC. 2. The Insurance Commissioner shall give notice by registered mail to all known North Carolina claimants, and shall publish a notice once a week for four consecutive weeks in a newspaper of general circulation in North Carolina for the purpose of enabling any other persons in North Carolina, who have claims against the Funeral Benefit Association of the United States, to file said claims with him. Thirty days after the publication of the last advertisement, and in the event that no further claims have been filed with the Insurance Commissioner, he shall proceed to distribute the proceeds of the above mentioned bond, after deducting such expenses as he has incurred, on a pro-rata basis to the North Carolina claimants, according to the following schedule of claims as determined by the receivers of the Funeral Benefit Association of the United States:

Notice to claimants.

Publication of notice.

Distribution of proceeds of sale.

Distribution based on schedule of claims as determined by receivers.

LIST OF CLAIMS DUE MEMBERS IN NORTH CAROLINA AND ASSESSMENTS CLAIMED BY ASSOCIATION AND SET-OFF AGAINST THOSE CLAIMS, AND ONE CLAIM AGAINST WHICH THERE IS NO SET-OFF, LEAVING BALANCES DUE CLAIMANTS

Member Council	*Claim of Member Council*	*Assessments Due Association*	*Balance Due Member Council*
N. C. 3 Liberty	$ 800.00	$ 190.75	$ 609.25
N. C. 18 Winona	600.00	501.80	98.20
N. C. 23 Guilford	1,250.00	745.50	504.50
N. C. 25 Cannonsville	2,750.00	1,788.00	962.00
N. C. 46 Alexander	2,000.00	213.00	1,787.00
N. C. 60 Worth Bagley	2,250.00	762.00	1,488.00
N. C. 74 Spencer	1,500.00	1,223.70	276.30
N. C. 81 Keystone	200.00		200.00
Totals	$11,350.00	$5,424.75	$5,925.25

In the event that any further claims are presented, the Insurance Commissioner shall investigate them, and, if he finds that any such claims are valid, he shall include them in the balances due Member Councils of the Funeral Benefit Association of the United States, and the pro-rata distribution shall be made by him on that basis.

Payment of further claims.

SEC. 3. In the event that the Insurance Commissioner shall complete the distribution of the funds of the Funeral Benefit Association of the United States as set out in Section two of this

Insurance Commissioner relieved upon distribution of funds.

Act, he shall be relieved and discharged of all liability imposed by law in respect to the deposit of the said five thousand dollar Liberty Bond with him.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 828 CHAPTER 356

AN ACT TO AMEND THE LOCAL GOVERNMENT ACT PROVIDING FOR BONDS OR OTHER EVIDENCES OF INDEBTEDNESS OF A LOCAL UNIT ACQUIRED BY SUCH UNIT TO BE CANCELLED.

The General Assembly of North Carolina do enact:

Ch. 60, Public Laws, 1931, Local Government Act amended.

SECTION 1. That the Local Government Act, being Chapter sixty of the Public Laws of one thousand nine hundred thirty-one, as amended, be and the same is hereby amended by inserting a new section immediately following Section seventy-five - E to read as follows:

Cancellation of retired bonds, etc. by local units.

"SEC. 75-F. Any bonds or other evidences of indebtedness issued by a unit which have heretofore been or may hereafter be acquired by said unit, unless so acquired for investment of sinking funds of said unit, shall be immediately cancelled and extinguished as obligations of said unit. It shall be the duty of any officer or employee of said unit in whose possession or custody said bonds or other evidences of indebtedness are placed to cancel the same as herein provided and to promptly report such cancellation to the Local Government Commission and furnish in said report a full description of the bonds or other evidences of indebtedness so cancelled."

Report of cancellation to Local Government Commission.

SEC. 2. That this Act shall be in force from and after its ratification.

SEC. 3. That all laws and clauses of laws in conflict herewith are hereby repealed.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 830 **CHAPTER 357**

AN ACT TO PROVIDE AN ADDITIONAL PLAN TO ESTABLISH SPECIAL COUNTY COURTS.

The General Assembly of North Carolina do enact:

SECTION 1. In addition to the plans now provided for the establishment of courts inferior to the Superior Court, there may be established by resolution of all of the members of the Board of County Commissioners of any county in the State a court of criminal and civil jurisdiction, which shall be a court of record and shall be called a special county court and shall have criminal and civil jurisdiction as herein provided: *Provided,* that the Board of County Commissioners may by proper resolution, establish a special county court having only criminal jurisdiction or only civil jurisdiction or having both criminal and civil jurisdiction as herein provided.

Establishment of special county courts authorized upon resolution of county commissioners.

Jurisdiction.

SEC. 2. The judge of said court shall be an elector in and for said county at the time of appointment and qualification, and shall be a man of good moral character. The solicitor of the county shall be an elector in and for said county, shall be a man of good moral character and a licensed attorney at law.

Qualifications of judge.

Qualifications of solicitor.

SEC. 3. After the establishment of such court by any county, it shall be the duty of the clerk of the board of commissioners of such county to immediately notify the Governor of the State, who shall appoint a judge to preside over such court, and each second year thereafter it shall be the duty of the Governor of the State to appoint the judge of each such county court who shall preside over said court, and the said judge shall hold office for a term of two years, and until his successor is appointed and qualified. Any vacancy occurring in the office of judge shall be filled by the Governor of the State.

Biennial appointment of judge by Governor.

Term of office of judge.

Vacancy appointments.

SEC. 4. The board of commissioners of any county availing itself of the provisions of this article may elect or appoint and for the same term as herein provided for the appointment of the judge of this court, a prosecuting attorney and clerk for said court.

Biennial appointment of prosecuting attorney and clerk, by county commissioners.

SEC. 5. Whenever, for any reason, the prosecuting attorney is temporarily absent, the judge shall appoint some other praticing attorney in the county to act as prosecuting attorney, and in case of temporary absence of the judge, either on account of sickness or other cause, the judge of said court shall appoint a judge to hold court during the absence of the regular judge.

Appointment of acting prosecuting attorney or judge in event of absence of regular official.

SEC. 6. The salary of the judge and solicitor and clerk shall be fixed by the board of commissioners of the county, and shall be paid monthly out of the funds of the county.

Compensation of judge and solicitor.

SEC. 7. Before entering upon the duties of office, the judge and solicitor shall take and subscribe an oath as is now provided

Oath of office of judge.

by law for the judges and solicitors of the Superior Court, and file the same with the Clerk of the Superior Court of the county, and the clerk shall record the same.

Appointment of temporary judge, etc.

SEC. 8. Where the judge is disqualified by reason of interest in any case, he may appoint a temporary judge to hear said case, or said case may be removed to the Superior Court for trial in the county.

Duties of clerk.

SEC. 9. The clerk of the special county court established under the provisions of this Act shall have as nearly as possible the same duties, powers, and responsibilities with reference to the special county court as a Clerk of the Superior Court. The said clerk shall be liable upon his official bond for the discharge of his duties and caring for funds paid to him as clerk of the special county court to the same extent as a Clerk of the Superior Court.

Liability of clerk upon official bond.

Oath of office of clerk.

SEC. 10. The clerk of the special county court before entering on the duties of the office, shall take and subscribe, before some officer authorized by law to administer an oath, the oath required under general law, and in addition thereto shall take and subscribe to an oath to perform faithfully all the duties required of him under this Act and file such oath with the Register of Deeds for the county.

Attendance upon court by Sheriff or deputies.

SEC. 11. The sheriff of the county, or his deputies, shall attend upon this court in the same manner and with the same power and authority as he does and has in attendance upon the Superior Court of the county.

Appointment of court stenographer.

SEC. 12. In the trial of any case in the special county court where a stenographer is deemed necessary, the judge of said court shall appoint a stenographer, and the fees for such work shall be taxed as part of the court cost in said case.

Right of jury trial in civil actions.

SEC. 13. In the trial of civil actions in said court, any party is entitled to the right of trial by jury as is provided in the trial of causes in the Superior Court, unless said right of trial by jury shall be waived as hereinafter provided.

Cases in which no written pleadings are filed.

SEC. 14. In those cases in which no written pleadings are required, the parties shall be conclusively presumed to have expressly waived their right to trial by jury, unless at the time of the issuance of the summons, the plaintiff, or petitioner, in writing, demands a jury trial, or the defendant at any time before the commencement of the trial, in writing, demands a jury trial.

Cases in which written pleadings are required.

SEC. 15. In those cases in which written pleadings are required to be filed, the parties shall be conclusively presumed to have expressly waived their right to trial by jury, unless at the time of the filing of the complaint or petition, the plaintiff, in writing, demands a jury trial, or unless at the time of the filing of the answer, or other pleading raising an issue of fact, the

defendant or other party filing such pleading demands, in writing, a jury trial.

Cases appealed or removed.

SEC. 16. In those cases which were or may hereafter be instituted before a justice of the peace and removed or appealed to this court, and in those cases which were or may hereafter be instituted in Superior Court, and removed to this court, a jury trial shall be conclusively presumed to have been expressly waived unless the party desiring a trial by jury shall make a demand therefor, in writing, at any time before the case is called for trial, in which event the number of the jury shall be as herein elsewhere provided.

Number of jurors.

SEC. 17. The jury of said court shall be a jury of six in all civil cases where a jury is demanded: *Provided*, that in those cases in which a jury is demanded the party shall at the time of making the demand pay to the clerk of the said court a deposit of six dollars ($6.00) to insure the payment of the jury tax: *Provided, further*, that where a party making such demand for a jury trial makes affidavit and satisfies the judge or clerk of the said court that he is unable to make the deposit, such party shall not be required to make the same. The deposit for a jury shall be returned to the party making it when the cost is paid by the losing party, against whom the cost is taxed.

Deposit required on demand for jury trial.

Exception.

Return of deposit.

Continuance of trial upon demand for jury.

SEC. 18. When a trial by jury is demanded in civil or criminal cases, the judge shall continue the cause until a day to be set, and the judge, together with the attorneys representing all parties shall immediately proceed to the office of the Register of Deeds of the county and cause to be drawn a jury of twelve, observing as nearly as may be the rule for drawing a jury for the Superior Court. The judge shall issue the proper writ to the Sheriff of the county, commanding him to summon the jurors so drawn to appear at the court on the day set for the trial of the action. Such jurors shall receive the same compensation as is provided by law for jurors serving in the Superior Court, and are to be paid out of the treasury of said county on presentation of a ticket duly issued by the clerk of said court.

Drawing of jury.

Summoning of jurors.

Compensation of jurors.

Jury trials in criminal actions.

SEC. 19. In all criminal actions, upon demand of the defendant or the prosecuting attorney, a jury of six shall be summoned in the same manner as provided for summoning jurors in civil actions.

Talesman may serve as jurors.

SEC. 20. In all criminal and civil actions, the judge shall have the right to call in talesmen to serve as jurors, according to the practice of the Superior Court, and to direct the Sheriff to call in a sufficient number of talesmen to serve during any one week or part of a week for the proper dispatch of the business of the court.

Sessions of court.

SEC. 21. The special county court shall be open for the trial of all criminal cases of which it has jurisdiction at least one day of each week, and shall also be open at least once each month for

the trial of all civil causes of which it has jurisdiction, said days to be fixed by the Board of County Commissioners, and shall continue its session from day to day until all business is transacted by trial, continuance or otherwise. The session of the court shall be held in the county court house or other place within the county provided by the Board of County Commissioners for that purpose. Special sessions of the court may be called by the judge as the necessities may require.

Place of court sessions.

Special sessions authorized.

Civil jurisdiction of court.

SEC. 22. The special county court shall have jurisdiction in civil matters as follows:

1. Jurisdiction concurrent with that of the justices of the peace of the county.

2. Jurisdiction concurrent with the Superior Court in all actions founded on contracts wherein the amount demanded shall not exceed the sum of fifteen hundred dollars ($1500.00), exclusive of interest and cost.

3. Jurisdiction concurrent with that of the Superior Court in all actions not founded on contracts wherein the amount demanded shall not exceed the sum of one thousand dollars ($1000.00), exclusive of interest and cost.

4. Jurisdiction concurrent with the Superior Court in all attachment and claim and delivery proceedings wherein the value of the property demanded does not exceed the sum of one thousand dollars ($1000.00), exclusive of interest and cost.

Procedure for hearing of appeals from courts of justices of the peace.

SEC. 23. In all cases where there is an appeal from a justice of the peace of a county wherein a special county court has been established under the provisions of this Act, such appeal shall be first heard de novo in the special county court. All appeals from justices of the peace in civil cases shall be heard in the same manner provided herein for hearing causes within the jurisdiction of a justice of the peace originating in the said special county court, and said appeals shall be docketed in the special county court within the same time limit and in the same manner as such appeals are now required to be docketed in the Superior Court.

Transfer of cases from Superior Court.

Trial by jury.

SEC. 24. By written consent of a plaintiff and defendant filed with the Clerk of the Superior Court, any civil case within the jurisdiction of the special county court, now or hereafter pending, in the Superior Court, may be transferred to the docket of the special county court, and there tried. If a jury trial is desired, it shall be expressed in the agreement to transfer the case; otherwise the right to trial by jury shall be conclusively presumed to have been expressly waived.

Separate records.

Equipment, etc., furnished by commissioners.

SEC. 25. The clerk of the special county court shall keep separate records for use of said court to be furnished by the county commissioners, and they shall also provide necessary blanks, forms, books and such stationery and office equipment as

may be needed by the court. The clerk shall keep the same in the office of the clerk of such court.

Procedure in civil actions.

SEC. 26. In civil cases when the special county court is exercising jurisdiction concurrent with that of the Superior Court, as now established, the rules of procedure, pleadings, practice, and admission of evidence, and judgment shall conform as nearly as possible to those of the Superior Court. In civil cases where the special county court is exercising jurisdiction concurrent with that of justices of the peace, actions shall be commenced in the special county court by summons issued and signed by the clerk or deputy, and orders to seize property in claim and delivery proceedings, warrants of attachment and subpoena may be issued by the clerk or deputy and the other rules of processes, pleadings, procedure, practice and procuring evidence and judgments shall conform as nearly as possible to those of the courts of the justices of the peace.

Orders to stay execution.

Judgments.

SEC. 27. Orders to stay execution on judgments entered in the special county court shall be the same as in appeals from the Superior Court to the Supreme Court. Judgments of the county court shall be docketed in the judgment docket of the Superior Court, as is provided for judgments of the Superior Court, and the judgments when docketed shall in all respects be a judgment of the Superior Court in the same manner and to the same extent as if rendered by the Superior Court, and shall be subject to the same statute of limitations and the statutes relating to the revival of judgments in the Superior Court and issuing executions thereon.

Seal of court.

SEC. 28. The county court shall have a seal with the impression "..... County Special Court", which shall be used in attestation of all summons, other processes, etc., acts, or judgments of said court whenever required, and in the same manner and to the same effect as the seal of other courts of record in the State of North Carolina.

Costs and fees.

SEC. 29. There shall be taxed in the special county court the same costs and fees for services of the officers thereof as provided for the court having concurrent jurisdiction; such costs and fees shall be taxed and collected by the clerk and paid over to the proper officers who are entitled to recive them.

Reopening of cases and modification of judgments.

SEC. 30. When any case has been finally disposed of by the judge of the court and judgment pronounced therein, the case shall not thereafter be reopened or the judgment or sentence rendered therein changed, modified or stricken out by the judge after the adjournment of the regular weekly term of court or after the adjournment of any special term of court.

Criminal jurisdiction.

SEC. 31. The court shall have concurrent jurisdiction in all criminal cases arising in the county which are now or may hereafter be given to a justice of the peace, and, in addition to the jurisdiction conferred by this section, shall have exclusive original

jurisdiction of all other criminal offenses committed in the county below the grade of a felony as now defined by law, and the same are hereby declared to be petty misdemeanors: *Provided, however,* that where a special county court or recorder's court shall legally exist within such county by virtue of a special Act of the Legislature passed before the amendment of the Constitution in reference thereto, then the special county court, as herein established, shall not have jurisdiction of criminal cases within the territory of such existing recorder's court, so as to interfere or conflict with the existing recorder's court, but shall have concurrent jurisdiction where the jurisdiction of the two courts covers the same causes or the same subject matter. This Act and the establishment of any court thereunder shall not be construed to repeal, modify or in anywise affect any existing special court or recorder's court by virtue of such former special Acts herein referred to.

Existing special courts or recorders' courts unaffected by this Act.

Jurisdiction and authority of judges.

SEC. 32. The judges of special county courts herein provided for shall be vested with all the jurisdiction and authority conferred upon recorders of municipal courts, in like manner and to the same extent as if such jurisdiction and authority had been specially in this section set forth, in so far as such jurisdiction and authority are applicable to such courts, and the provisions of existing law relative to municipal recorder's courts shall in all things apply to the special county courts where the same are not inconsistent and in so far as same are practically applicable: *Provided,* that this section shall not take away the jurisdiction of a mayor to try breaches of ordinances when such city has no other municipal court.

Existing laws relative to municipal recorder's courts made applicable.

Removal of cases from courts of justices of peace.

SEC. 33. When, upon written request made before entering on the trial of any cause before any justice of the peace, it shall appear proper for the cause to be removed for trial to some other justice, as is now provided by law, the cause may be removed for trial to the special county court of the county.

Criminal cases bound over by justices of the peace.

SEC. 34. In all criminal cases heard by a justice of the peace or other committing magistrate of the county against any person for any offense included within the exclusive jurisdiction of the special county court as provided in this article, and in which probable cause of guilt is found, such person shall be bound in a personal recognizance or surety to appear at the next succeeding session of the special county court of the county, for trial; and in default of such surety such person shall be committed to the common jail of the county to await a trial: *Provided,* that in the event any justice of the peace or other committing magistrate shall bind over to the Superior Court any person accused of a crime within the jurisdiction of the special county court, the Clerk of the Superior Court shall, upon his own motion, transfer all papers in the case to the special county court, and the case shall then stand for trial at the next succeeding term of said special county court, as if the defendant had been bound over to the said court

Commitment to county jail upon default of surety.

Cases remanded by Superior Court.

in the first instance: *Provided, further,* that in the event any justice of the peace or other committing magistrate shall bind over to the special county court any person charged with an offense beyond the jurisdiction of said court, the said judge shall cause the accused person to enter into a new bond with sufficient surety for his appearance at the next succeeding term of the Superior Court of the county, and shall transmit all papers in the case to the said Superior Court, but this shall be done without additional cost to the accused person.

New bond where offense is beyond jurisdiction.

SEC. 35. Whenever the Clerk of the Superior Court shall transfer the papers in any case from the Superior Court to a special county court, he shall at the same time issue a notice to the accused person and his surety, informing them that the cause has been so transferred and requiring the accused person to appear at the next succeeding term of said special county court for trial, and, upon the service of said notice upon the accused person and his surety, at least five days before the beginning of the next succeeding term of the special county court, the case shall stand for trial at said term and the bond given by the accused person for his appearance at the next term of the Superior Court shall in all respects be valid and binding to compel the appearance of the accused person at the said next succeeding term of said special county court, and in case said notice is not served on the accused person and his surety at least five days before the beginning of the next succeeding term of the special county court, then the case shall not be tried without the consent of the accused person until the following term of the special county court.

Notice to accused person and surety in cases transfered from Superior Court.

SEC. 36. All trials of criminal causes in said court shall be upon warrant issued by the clerk of said court or deputy clerk herein provided for or by the judge or by any justice of the peace of the county. In either event such warrant shall be issued upon affidavit duly made and subscribed, setting forth the complaint against the defendant: *Provided,* the judge shall have authority to amend the warrant and to allow amendment of the affidavit at any time before judgment.

Issuance of warrant in criminal causes.

SEC. 37. Whenever any person shall be convicted or plead guilty of any offense of which the court has final jurisdiction the judge may sentence him to the common jail of the county in which the court shall be held, and assign him to work on the public roads, under the supervision of the State Highway and Public Works Commission: *Provided,* that in case the person so convicted or pleading guilty shall be a woman or an infant of immature years, then the judge may assign him or her to the county workhouse, reformatory, or other penal institution located in the county; or if there be none, any similar institution that may be located outside of the county to which judges of the Superior Court are authorized to sentence such person under the general laws of the State. All fines imposed by the court shall be collected by the clerk of such court or the deputy clerk thereof in the same

Punishment upon conviction.

Collection of imposed fines by clerk.

manner as the Clerk of the Superior Court; and, where a defendant is convicted and fails to pay the costs of such conviction, the county shall pay such costs as is allowed by law in similar cases before the Superior Court.

Appeals to Superior Court.

SEC. 38. Any person convicted of any offense of which the county court has final jurisdiction may appeal to the Superior Court from any judgment or sentence of the court in the same manner as is now provided for appeals from the courts of justices of the peace; and any person tried before the judge for any offense of which the court has not final jurisdiction shall, upon the judge's finding probable cause of guilt, be bound over to the Superior Court in the same manner as is provided by law in similar cases before justices of the peace.

Cases bound over to Superior Court.

Fees for issuance and service of warrants.

SEC. 39. All justices of the peace, constables and Sheriffs issuing or serving warrants or other process returnable to the special county court shall have the same fees as are now prescribed by law, which fees shall be collected and paid out in the same manner and by the same officers as collect and distribute such fees in the Superior Court.

Arrest, etc. fees.

SEC. 40. There shall be taxed in the special county court the same costs and fees for the benefit of the officers thereof as provided for municipal recorder's court. Such costs and fees shall be collected by the clerk and paid over monthly to the treasurer of the county as county funds to be dealt with by the commissioners.

Abolition of court, by resolution of commissioners.

SEC. 41. Any court established under this Act may be abolished by resolution of a majority of the Board of County Commissioners for such county by giving written notice of such intention one month prior thereto; and in case of the abolition of the court, cases then pending shall be transferred to the Superior Court and there tried.

Counties exempt.

SEC. 42. That this Act shall not apply to the Counties of Alamance, Alexander, Anson, Ashe, Avery, Beaufort, Bertie, Bladen, Brunswick, Burke, Caldwell, Carteret, Catawba, Chatham, Chowan, Clay, Cleveland, Columbus, Craven, Dare, Duplin, Edgecombe, Franklin, Forsyth, Gaston, Gates, Granville, Greene, Halifax, Harnett, Hoke, Hyde, Iredell, Johnston, Jones, Lee, Lenoir, Lincoln, Madison, Mecklenburg, Mitchell, Nash, New Hanover, Northampton, Onslow, Pasquotank, Pender, Perquimans, Robeson, Rutherford, Sampson, Stanly, Surry, Union, Vance, Wake, Warren, Wayne, Washington and Wilson.

Construction of Act.

SEC. 43. This Act shall not be construed to repeal or modify any existing laws by which a county court may be created or to affect or repeal any court now or hereafter created under existing laws, and shall only be construed to be an additional method by which a special county court may be established for criminal or criminal and civil jurisdictions.

SEC. 44. That if any part or section of this Act should be declared unconstitutional or invalid by the Supreme Court of North Carolina, that it shall in no wise affect the remainder of said Act, and that the remainder shall remain in full force and effect. Partial invalidity clause.

SEC. 45. This Act shall be in force and effect from and after its ratification.

In the General Assembly read three time and ratified, this the 3rd day of April, 1939.

H. B. 856 CHAPTER 358

AN ACT TO PROVIDE FOR THE ADMINISTRATION AND OPERATION OF A UNIFORM SYSTEM OF PUBLIC SCHOOLS OF THE STATE FOR THE TERM OF EIGHT MONTHS WITHOUT THE LEVY OF AN AD VALOREM TAX THEREFOR.

The General Assembly of North Carolina do enact:

SECTION 1. (*a*) *Purpose of the Act.* The purpose of this Act is to provide for the administration and operation of a uniform system of public schools of the State for the term of eight months without the levy of an ad valorem tax therefor, and it is the purpose of this General Assembly to change the policy heretofore followed by previous General Assemblies of reenacting biennially the School Machinery Act, and this Act shall remain in force until repealed or amended by subsequent Acts of the General Assembly. School Machinery Act. Purpose of General Assembly to provide for permanent Act in lieu of biennial reenactments.

(b) *Appropriation.* That the appropriation made under Title nine "(IX - 1) - Support of Eight Months' Term Public Schools," of "An Act to Make Appropriations for the Maintenance of the State's Departments, Bureaus, Institutions, and Agencies, and for Other Purposes," and such funds as may be made available by Acts of the Congress of the United States for public schools, and such other funds as may be made available from all other sources for the support of the eight months' term public schools, for the year ending June thirtieth, one thousand nine hundred forty, and annually thereafter, shall be apportioned for the operation of an eight months' school term as hereinafter provided. Apportionment of biennial appropriation and other funds available for operation of eight months' school term.

SEC. 2. *State School Commission.* The State School Commission shall be constituted as follows: The Lieutenant-Governor as ex officio chairman, the State Superintendent of Public Instruction as vice-chairman, the State Treasurer, and one member from each Congressional District to be appointed by the Governor. The said appointive members shall serve for a period of two years from the time of their appointment and receive such compensation as now provided by law. All the powers and duties heretofore Membership of State School Commission. Terms of office and compensation.

Powers and duties.

conferred by law upon the State School Commission, together with such other powers and duties as may be conferred by this Act, shall be vested in the State School Commission. The said

Executive secretary.

school commission may appoint an executive secretary, who shall select other employees necessary for the proper administration of this Act to be approved by the State School Commission, subject to the provisions of Chapter two hundred seventy-seven, Public Laws of one thousand nine hundred thirty-one. The cost

Payment of cost and expenses of Commission.

and expenses of said commission shall be paid out of the appropriation made for the public schools as provided in Section one of this Act.

Administration of funds for eight months' term.

SEC. 3. *Duties of the Commission.* In addition to the duties and powers vested in the State School Commission as set out in Section two of this Act, together with such other powers as may be conferred by law, it shall be the duty of the said commission, in accordance with the provisions of this Act, to administer funds for the operation of the schools of the State for one hundred sixty days on standards to be determined by said commission and within

Executive Committee.

the total funds set out in Section one of this Act. The State School Commission may designate from its membership an executive committee, composed of the Lieutenant-Governor, the State Superintendent of Public Instruction, the State Treasurer, and two other members, with whom the executive secretary may confer with reference to the administration of this Act when the com-

Established as an agency for consultation and advice.

mission is not in session. The purpose of this provision is to provide an agency for consultation and advice as to questions arising between meetings of the commission, and for the purpose of effectuating a closer unity between the different agencies dealing with the schools. The secretary shall keep a record of the pro-

Record of meetings of Executive Committee.

ceedings of any meetings of the executive committee in the same manner as proceedings of the full commission are kept and recorded.

Length of term of public schools to be 160 school days.

SEC. 4. *Length of School Term.* That the six months' school term required by Article nine of the Constitution is hereby extended to embrace a total of one hundred sixty days of school in order that there shall be operated in every county and district in the State, which shall request the same, a uniform

Discontinuance of schools within term in event of low average attendance.

term of eight months: *Provided*, that the State School Commission, or the governing body of any administrative unit, may suspend the operation of any school or schools in such unit, not to exceed a period of forty days of said consolidated term, when in the sound judgment of said commission, or the governing body of any administrative unit, the low average in any school does not justify its continuance, or necessity may

Opening dates.

require it: *Provided*, that all schools served by the same school bus or busses shall have the same opening date.

"School month" defined.

A school month shall consist of four weeks and not less than twenty teaching days, no day of which shall be a Saturday,

unless in case of emergency, and subject to the approval of the local committee and the superintendent of the administrative unit; and salary warrants for the payment of all State teachers, principals, and others employed for the school term shall be issued each school month to such persons as are entitled to same. The salaries of superintendents and others employed on an annual basis shall be paid per calendar month: *Provided,* that teachers may be paid in twelve equal monthly installments in such administrative units as shall request the same of the State School Commission on or before October first of each school year. Before such request shall be filed, it shall be approved by the governing board, the superintendent, and a majority of the teachers in said administrative unit. The payment of the annual salary in twelve installments instead of eight shall not increase or decrease said annual salary nor in any other way alter the contract made between the teacher and the said administrative unit; nor shall such payment apply to any teacher who is employed for a period less than eight months.

Salaries of teachers, principals, etc. payable each school month.

Salaries of superintendents, etc. payable each calendar month.

Payment of salaries of teachers in 12 monthly installments upon request of administrative unit.

SEC. 5. *School Organizations.* The State School Commission, in making provision for the operation of the schools, shall classify each county as an administrative unit and shall, with the advice of the county board of education, make a careful study of the existing district organization in each county administrative unit, and may modify such district organization when deemed necessary for the economical administration and operation of the State school system, and shall determine whether there shall be operated in such district an elementary or a union school. Provisions shall not be made for a high school with an average daily attendance of less than sixty pupils, nor an elementary school with an average daily attendance of less than twenty-five pupils, unless a careful survey by the State Superintendent of Public Instruction and the State School Commission reveals that geographic or other conditions make it impracticable to provide for them otherwise. Funds shall not be made available for such schools until the said survey has been completed and such schools have been set up by the said school commission.

Counties classified as administrative units.

Supervision of district organization.

Minimum number of pupils required for establishing schools.

Exceptions.

It shall be within the discretion of the State School Commission, wherever it shall appear to be more economical for the efficient operation of the schools, to transfer children living in one administrative unit or district to another administrative unit or district for the full term of such school without the payment of tuition: *Provided,* that sufficient space is available in the buildings of such unit or district to which the said children are transferred: *Provided further,* the provision as to the nonpayment of tuition shall not apply to children who have not been transferred as set out in this section.

Commission may transfer children from one administrative unit to another for economical purposes.

No tuition required in event of transfer.

Nonpayment of tuition inapplicable to children not transferred.

City administrative units.

City administrative units as now constituted shall be dealt with by the State school authorities in all matters of school administration in the same way and manner as are county administrative units: *Provided,* that in all city administrative units as now constituted the trustees of the said special charter districts, included in said city administrative unit, and their duly elected successors, shall be retained as the governing body of such district; and the title to all property of the said special charter district shall remain with such trustees, or their duly chosen successors; and the title to all school property hereafter acquired or constructed within the said city administrative unit, shall be taken and held in the name of the trustees of said city administrative unit; and the County Board of Commissioners of any county shall provide funds for the erection or repair of necessary school buildings on property, the title to which is held by the board of trustees as aforesaid, and the provisions of Consolidated Statutes of one thousand nine hundred nineteen, Section five thousand four hundred seventy-two, to the extent in conflict herewith, is hereby repealed: *Provided,* that nothing in this Act shall prevent city administrative units, as now established, from consolidating with the county administrative unit in which such city administrative unit is located, upon petition of the trustees of the said city administrative unit and the approval of the county board of education and the County Board of Commissioners in said county: *Provided, further,* that nothing in this Act shall affect the right of any special charter district, or special tax district which now exists for the purpose of retiring debt service, to have the indebtedness of such district taken over by the county as provided by existing law, and nothing herein shall be construed to restrict the county board of education and/or the Board of County Commissioners in causing such indebtedness to be assumed by the county as provided by existing law.

Trustees of special charter districts to act as governing body of districts.

Title to school property vested in trustees.

County Commissioners to provide for erection or repair of school buildings of city units.

Consolidation of city and county administrative units.

Petition.

Approval.

Right of county to assume debts of school districts unaffected.

Appointment of board of trustees for special charter districts.

The board of trustees for any special charter district in any city administrative unit shall be appointed as now provided by law. If no provision is now made by law for the filling of vacancies in the membership of such board of trustees, such vacancy may be filled by the governing body of the city or town embraced by said administrative unit.

Title to property of abolished special charter districts vested in County Boards of Education.

In all cases where title to property has been vested in the trustees of a special charter district which has been abolished and has not been reorganized, title to such property shall be vested in the county board of education of the county embracing such special charter district.

Administrative officers of school units.

SEC. 6. *Administrative Officers.* The administrative officer in each of the units now designated shall be a county superin-

tendent of schools for a county administrative unit and a city superintendent of schools for a city administrative unit. County and city superintendents.

The salaries of county superintendents and city superintendents shall be in accordance with a State standard salary schedule to be fixed and determined by the State Board of Education and State School Commission as provided for in Section twelve of this Act; and such salary schedule for superintendents shall be determined on the same basis for both county and city superintendents and shall take into consideration the amount of work inherent to the office of both county and city superintendents; and such schedule shall be published in the same way and manner as the schedules for teachers' and principals' salaries are now published: *Provided,* that it shall be lawful for the county superintendent of schools in any county, with the approval of the State Superintendent of Public Instruction, to serve as principal of a high school of said county; and the sum of not exceeding three hundred dollars ($300.00), to be paid from State instructional service funds, may be added to his salary and shall be included in the budget approval by the State School Commission: *Provided, further,* that a county superintendent may also be elected and serve as a city superintendent in any city administrative unit in the county which he serves as county superintendent: *Provided,* further, that a county superintendent may serve as welfare officer and have such additional compensation as may be allowed by the county commissioners of such county, to be paid from county funds, subject to the approval of the State School Commission. Salaries of superintendents. Basis for determination of salary schedule. Publication of schedule. County superintendent as high school principal. Additional compensation. County superintendent as city superintendent. County superintendent as welfare officer.

At a meeting to be held the first Monday in April, one thousand nine hundred thirty-nine, or as soon thereafter as practicable, and biennially thereafter during the month of April, the various county boards of education shall meet and elect a county superintendent of schools, subject to the approval of the State Superintendent of Public Instruction and the State School Commission, who shall take office July first and shall serve for a period of two years, or until his successor is elected and qualified. A certification to the county board of education by the State Superintendent of Public Instruction showing that the person proposed for the office of county superintendent of schools is a graduate of a four year standard college, or at the present time holds a superintendent's certificate, and has had three years' experience in school work in the past ten years, together with a doctor's certificate showing the person to be free from any contagious disease, shall make any citizen of the State eligible for this office. Election of county superintendents. Term of office. Qualifications.

In all city administrative units, the superintendent of schools shall be elected by the board of trustees, or other school gov- Election of city superintendents.

erning agency of such unit, to serve for a period of two years; and the qualifications, approval, and date of election shall be the same as for county superintendents. The city superintendent is hereby ex officio secretary to the governing body of said city administrative unit.

Qualifications, etc.

Selection of principals, teachers and other employees in city units.

At its first regular meeting in April or as soon thereafter as practicable, the board of trustees, or other governing board of a city administrative unit, shall elect principals, teachers, and other necessary employees of the schools within said unit on the recommendation of the city superintendent.

Selection of district committees by County Boards of Education.

SEC. 7. *School Committees.* At the first regular meeting during the month of April, one thousand nine hundred thirty-nine, or as soon thereafter as practicable, and biennially thereafter, the county boards of education shall elect and appoint school committees for each of the several districts in their counties, consisting of not less than three nor more than five persons for each school district, whose term of office shall be for two years: *Provided,* that in the event of death or resignation of any member of said school committee, the county board of education shall be empowered to select and appoint his or her successor to serve the remainder of the term: *Provided,* that in units desiring the same, by action of the county board of education and subject to the approval of the State School Commission, one third of the members may be selected for a term of one year, one third of the members for a term of two years, and one third of the members for a term of three years, and thereafter all members for a term of three years from the expiration of said terms.

Term of office.

Vacancies.

Provision for varying terms of office for member of district committees.

Selection of principals.

Selection of teachers.

Distribution of teachers between schools.

Selection of teachers by County Boards of Education upon disagreement of local authorities.

Contracts of employment.

The district committee shall elect the principals for the schools of the districts, subject to the approval of the county superintendent of schools and the county board of education. The principals of the districts shall nominate and the district committees shall elect the teachers for all the schools of the districts, subject to the approval of the county superintendent of schools and the county board of education. The distribution of the teachers between the several schools of the district shall be subject to the approval of the county board of education. In the event the local school authorities herein provided for are unable to agree upon the nomination and election of teachers, the county board of education shall select the teacher or teachers, which selection shall be final for the ensuing school term. All principals and teachers shall enter into a written contract upon forms to be furnished by the State Superintendent of Public Instruction before becoming eligible to receive any payment from State funds. It shall be the duty of the county board of education in a county administrative unit, and of the governing body of a city administrative unit, to cause written contracts on forms to be furnished by the State

to be executed by all teachers and principals elected under the provisions of this Act before any salary vouchers shall be paid: *Provided, further,* that the county board of education may appoint an advisory committee of three members for each school building in the said school district, who shall care for the school property and perform such other duties as may be defined by the county board of education.

Contracts to be executed before payment of salaries.

Advisory boards to care for school property.

SEC. 8. *Organization Statement and Allotment of Teachers.* On or before the twentieth day of May in each year, the several administrative officers shall present to the State School Commission a certified statement showing the organization of the schools in their respective units, together with such other information as said commission may require. The organization statement as filed for each administrative unit shall indicate the length of term the State is requested to operate the various schools for the following school year, and the State shall base its allotment of funds upon such request. On the basis of such organization statement, together with all other available information, and under such rules and regulations as the State School Commission may promulgate, the State School Commission shall determine for each administrative unit, by districts and races, the number of elementary and high school teachers to be included in the State Budget, provided that loss in attendance due to epidemics shall be taken into consideration in the allotment of teachers.

Organization statement by administrative officers.

School term indicated.

Determination of number of elementary and high school teachers to be allotted, by State School Commission.

It shall be the duty of the governing body in each administrative unit, after the opening of the schools in said unit, to make a careful check of the school organization and to request the State School Commission to make changes in the allocation of teachers to meet requirements of the said unit.

Petition for change in allocation of teachers.

SEC. 9. *Objects of Expenditure.* The appropriation of State funds, as provided under the provisions of this Act, shall be used for meeting the costs of the operation of the public schools as determined by the State School Commission, for the following items:

Items of school expenditure.

1. General Control:

General control.

   a. Salaries of superintendents
   b. Travel of superintendents
   c. Salaries of clerical assistants for superintendents
   d. Office expense of superintendents
   e. Per diem county boards of education in the sum of one hundred dollars ($100.00) to each county
   f. Audit of school funds

2. Instructional Service:

Instructional service.

   a. Salaries for white teachers, both elementary and high school

b. Salaries for colored teachers, both elementary and high school
c. Salaries of white principals
d. Salaries of colored principals
e. Instructional supplies

Operation of plant.

3. Operation of Plant:

a. Wages of janitors
b. Fuel
c. Water, light and power
d. Janitors' supplies
e. Telephone expense

Auxiliary agencies.

4. Auxiliary Agencies:

a. Transportation
(1) Drivers and contracts
(2) Gas, oil, and grease
(3) Mechanics
(4) Parts, tires, and tubes
(5) Replacement busses
(6) Compensation for injuries and/or death of school children as now provided by law
b. Libraries
c. Health

Allocation of funds on basis of eight months' term.

In allotting funds for the items of expenditures hereinbefore enumerated, provision shall be made for a school term of only one hundred sixty days.

Effecting economies.

Increase or decrease in salary schedule.

The State School Commission shall effect all economies possible in providing State funds for the objects of general control, operation of plant, and auxiliary agencies, and after such action shall have authority to increase or decrease on a uniform percentage basis the salary schedule of teachers, principals, and superintendents in order that the appropriation of State funds for the public schools may insure their operation for the length of term provided in this Act: *Provided, however,*

Use of school buildings for other purposes.

that the State School Commission and county boards of education for county administrative units and boards of trustees for city administrative units, shall have power and authority to promulgate rules by which school buildings may be used for other purposes.

Allocation of fines, forfeitures, etc.

The objects of expenditure designated as Maintenance of Plant and Fixed Charges shall be supplied from funds required by law to be placed to the credit of the public school funds of the county and derived from fines, forfeitures, penalties, dog taxes, and poll taxes, and from all other sources except State

Use of such funds to supplement certain items.

funds: *Provided,* that when necessity shall be shown, and upon the approval of the county board of education or the trustees

of any city administrative unit, the State School Commission may approve the use of such funds in any administrative unit to supplement any object or item of the current expense budget, including the supplementing of the teaching of vocational subjects; and in such cases the tax levying authorities of the county administrative unit shall make a sufficient tax levy to provide the necessary funds for Maintenance of Plant, Fixed Charges, and Capital Outlay: *Provided, further,* that the tax levying authorities in any county administrative unit, with the approval of the State School Commission, may levy taxes to provide necessary funds for teaching vocational agriculture and home economics and trades and industrial vocational subjects supported in part from Federal vocational educational funds: *Provided, further,* that nothing in this Act shall prevent the use of Federal and/or privately donated funds which may be made available for the operation of the public schools under such regulations as the State Board of Education may provide.

Special tax levy authorized to provide funds for teaching certain subjects.

Use of Federal or privately donated funds unaffected.

SEC. 10. *State Budget Estimate.* The State budget estimate shall be determined by the State School Commission for each county and city administrative unit by ascertaining the sum of the objects of expenditure according to and within the limits fixed by this Act, and within the meaning of the rules and regulations promulgated by the State School Commission; and the certification of same shall be made to each county superintendent, city superintendent, and the State Superintendent of Public Instruction on or before June first of each year.

Method of estimating budget for each unit.

Certification to unit heads.

SEC. 11. *Salary Costs.* That upon receipt of notice from the State School Commission of the total number of teachers, by races and for county and city administrative units separately, the State Superintendent of Public Instruction shall then determine, in accordance with the schedule of salaries established, the total salary cost in each and every administrative unit for teachers, principals, and superintendents to be included in the State budget for the next succeeding fiscal year for the consolidated school term as herein defined. This amount as determined from a check of the costs for the preceding year with adjustments resulting from changes in the allotment of teachers, shall be certified to the State School Commission; together with the number of elementary and high school teachers and principals employed in accordance with the provisions of this Act, separately by races, and for city and county administrative units.

Determination of salary requirements.

Amount certified to Commission.

SEC. 12. *State Standard Salary Schedule.* The State Board of Education and the State School Commission shall fix and determine a State standard salary schedule for teachers, principals, and superintendents, which shall be the maximum standard State salaries to be paid from State funds to the teachers, principals, and superintendents; and all contracts with teachers

Standard salary schedule.

Contracts made locally.

and principals shall be made locally by the county board of education and/or the governing authorities of city administrative units, giving due consideration to the peculiar conditions surrounding each employment, the competency and experience of the teacher or principal, the amount and character of work to be done, and any and all other things which might enter into the contract of employment: *Provided, however,* that the compensation contracted to be paid out of State funds to any teacher, principal, or superintendent shall be within the maximum salary limit to be fixed by the State Board of Education and the State School Commission, as above provided, and within the allotment of funds as made to the administrative unit for the item of instructional salaries: *Provided, further,* that no teacher or principal shall be required to attend summer school during the years one thousand nine hundred thirty-nine and one thousand nine hundred forty, and the certificate of such teacher or principal as may have been required to attend such school shall not lapse but shall remain in full force and effect, and all credits earned by summer school and/or completing extension course or courses shall not be impaired, but shall continue in full force and effect.

Consideration given to conditions of employment and qualifications.

Salaries under contract must be within maximum limit.

Summer school requirement suspended during biennium.

Summer school or extension credits unimpaired.

Application for positions in State school system.

Any teacher or principal desiring election as teacher or principal shall file his or her application in writing with the county or city superintendent of schools.

Notification as to election or rejection.

Notice of acceptance of employment.

Notices of resignation.

It shall be the duty of such county superintendent or administrative head of a city administrative unit to notify all teachers and/or principals now or hereafter employed, by letter, of his or her election or rejection prior to the close of the school term subject to the allotment of teachers made by the State School Commission; acceptance of employment to be made in writing within ten days after notification of election: *Provided, further,* that principals and teachers desiring to resign must give not less than thirty days notice prior to opening of school in which the teacher or principal is employed to the official head of the administrative unit in writing. Any principal or teacher violating this provision may be denied the right to further service in the public schools of the State for a period of one year unless the county board of education or the board of trustees of the administrative unit where this provision was violated waives this penalty by appropriate resolution.

No rule as to marriage enforced.

In the employment of teachers, no rule shall be made or enforced which discriminates with respect to the sex, marriage, or nonmarriage of the applicant.

Principal to teach in school of fifty teachers or less.

SEC. 13. *Principals Allowed.* In all schools with fewer than fifty teachers allowed under the provisions of this Act, the principals shall be included in the number of teachers allowed. In

schools with fifty or more teachers, one whole time principal shall be allowed; that for each forty teachers in addition to the first fifty, one additional whole time principal, when and if actually employed, shall be allowed: *Provided,* that in the allocation of State funds for principals, the salary of white principals shall be determined by the number of white teachers employed in the white schools, and the salary of colored principals shall be determined by the number of colored teachers employed in the colored schools: *Provided, further,* that where a white school and a colored school are both under the control of the same district committee and where the principal of the white school is called upon by the district committee to perform certain duties in connection with the operation of the colored school such as aiding in the employment of teachers and in the general supervision of the colored school, the State School Commission and the State Board of Education may in their discretion take such service into consideration in the fixing of the principal's salary and may make a reasonable allowance for same.

Number of principals dependent upon number of teachers.

Salary of principals determined by number of teachers.

Determination of salary of principal of white school assisting in operation of negro school.

SEC. 14. *Local Supplements.* The county board of education in any county administrative unit and the school governing board in any city administrative unit, with the approval of the tax levying authorities in said county or city administrative unit and the State School Commission, in order to operate schools of a higher standard than that provided by State support in said administrative unit having a school population of one thousand (1,000) or more, but in no event to provide for a term of more than one hundred eighty (180) days, may supplement the funds from State or county allotments available to said administrative unit: *Provided,* that before making any levy for supplementing said allotments, an election shall be held in said administrative unit or district to determine whether there shall be levied a tax to provide said supplemental funds, and to determine the maximum rate which may be levied therefor. Upon the request of the county board of education in a county administrative unit and/or the school governing authorities in a city administrative unit, the tax levying authorities of such unit shall provide for an election to be held under laws governing such elections as set forth in Articles XXIII, XXIV and XVI of Chapter ninety-five of the Consolidated Statutes of North Carolina, Volume three: *Provided,* that the rate voted shall remain the maximum until revoked or changed by another election: *Provided, further,* that nothing herein contained shall be construed to abolish any city administrative unit heretofore established under Chapter four hundred forty-five of Public Laws of one thousand nine hundred thirty-five.

Provision for supplementary items of school expenditure.

Election on supplement to be held.

Laws applicable.

Upon a written petition of a majority of the governing board of any district which has voted a supplementary tax, the county board of education, after approving the petition, shall present the same to the Board of County Commissioners and ask for an

Petition by district voting supplementary tax for election on question of enlargement of boundary lines of district.

election on the question of the enlargement of the boundary lines of any such district so as to include any contiguous territory, and an election in such new territory may be ordered and held under rules governing elections for local taxes as provided in this section: *Provided,* the local tax rate specified in the petition and submitted to the qualified voters shall be a local tax of the same rate as that voted in the said district to which the territory is to be added. If a majority of the qualified voters in such new territory shall vote in favor of such tax, the new territory shall be and become a part of said district, and the term "local tax of the same rate" herein used shall include, in addition to the usual local tax, any tax levied to meet the interest and sinking fund of any bonds heretofore issued by the district proposed to be enlarged. In case a majority of the qualified voters at the election shall vote in favor of the tax, the district shall be deemed enlarged as so proposed.

Election ordered in territory to be included.

New territory to be made part of district in event of a majority vote for supplementary tax.

County boards may supplement funds of any district for special purposes.

Sec. 14½. The county board of education in any county administrative unit, with the approval of the tax levying authorities in said unit and the State School Commission, in order to provide a twelfth grade, a ninth month, or additional vocational teachers, or for all of said purposes, including the cost necessary for transportation of students for the said twelfth grade or ninth month, in any district in said county administrative unit, having a school population of one thousand (1,000) or more, but in no event to provide for a term of more than one hundred eighty days, may supplement the funds now available to said district: *Provided,* that before making any levy for supplementing said allotments, an election shall be held in said district to determine whether there shall be levied a tax to provide said supplemental funds and to determine the maximum rate which may be levied therefor. Before said election can be held in such district, a petition of the district committee setting out the purposes for which said election is to be had and the maximum rate of tax which may be levied shall be approved by the county board of education, the tax levying authorities of said county, and the State School Commission. When such approval is had, then upon the request of the county board of education, the tax levying authorities of such unit shall provide for an election under the laws governing such elections as are set forth for county and city administrative unit supplementary elections in Section fourteen of this Act.

Election on supplement to be held.

Petition for election.

Laws applicable to election.

Sec. 15. *Local Budgets.*

(a) The request for funds to supplement State school funds, as permitted under the above conditions, shall be filed with the tax levying authorities in each county and city administrative unit on or before the fifteenth day of June on forms provided by the State School Commission. The tax levying authorities in such units may approve or disapprove this supplemental budget in whole or in part, and upon approval being given, the same shall be submitted to the State School Commission, which shall

Filing request for supplementary funds.

Approval by local authorities and Commission.

have authority to approve or disapprove any object or item contained therein. In the event of approval by the State School Commission, the same shall be shown in detail upon the minutes of said tax levying body, and a special levy shall be made therefor, and the tax receipt shall show upon the face thereof the purpose of said levy.

Making special tax levy.

(b) In the same manner and at the same time, each county and/or city administrative unit may file a Capital Outlay budget, subject only to the approval of the tax levying authorities and the State School Commission.

Filing budget for capital outlay.

(c) In the same manner and at the same time, each county and/or city administrative unit shall file a Debt Service budget, which shall include Debt Service budgets of special bond tax districts, as set forth in Section sixteen of this Act, and which shall be subject to the approval of the tax levying authorities in each such unit and the State School Commission: *Provided*, that nothing in this Act shall prevent counties, local taxing districts and/or special charter districts from levying taxes to provide for Debt Service requirements.

Filing budget for debt service.

Approval.

Debt service tax levies unaffected.

The tax levying authorities in each of the above named units filing budgets from local funds shall report their action on said budgets on or before the tenth day of July, and the same shall be reported to the State School Commission on or before the twentieth day of July. The action of the State School Commission on all requests for local funds budgets shall be reported to boards of education and/or school governing authorities of city administrative units and the tax levying authorities in such units on or before the twentieth day of August.

Reports by local units on budgets.

Reports by School Commission.

All county-wide Current Expense school funds shall be apportioned to county and city administrative units and distributed monthly by the county treasurer to each unit located in said county on a per capita enrollment basis. County-wide expense funds shall include all funds for current expenses levied by the Board of County Commissioners in any county to cover items for Current Expense purposes, and including also all fines, forfeitures, penalties, poll and dog taxes and funds for vocational subjects.

Current expense funds apportioned on per capita basis.

All county-wide Capital Outlay school funds shall be apportioned to county and city administrative units on the basis of budgets submitted by said units to the county commissioners and for the amounts and purposes approved by said commissioners. Capital Outlay funds so provided for expenditure by the county administrative unit shall be paid out upon warrants drawn by the county board of education, and those provided for expenditure by a city administrative unit shall be paid out upon warrants drawn by the governing board of the city administrative unit: *Provided*, that funds derived from payments on insurance losses shall be used in the replacement of buildings destroyed, or in the event the buildings are not replaced, said funds shall be used to

Capital outlay funds apportioned on basis of budgets submitted.

Disbursement of capital outlay funds.

Insurance benefits.

Apportionment of debt service funds.

reduce the indebtedness of the special bond taxing unit to which said payment has been made, or for other capital outlay purposes within said unit. All county-wide Debt Service funds shall be apportioned to county and city administrative units and distributed at the time of collection and when available shall be expended in the same manner as are county-wide Current Expense school funds: *Provided*, that the payments to any administrative unit shall not exceed the actual needs of said units, including sinking fund requirements. The per capita enrollment basis shall be determined by the State School Commission and certified to each administrative unit.

Payments not to exceed actual needs.

Determination of per capita enrollment basis.

District bonded debts unaffected by divisions or consolidations.

SEC. 16. *School Indebtedness.* If a boundary, territorial district, or unit in which a special bond tax has heretofore been voted or in anyway assumed prior to July first, one thousand nine hundred thirty-three, has been or may be divided or consolidated, and the whole or a portion of which has been or may be otherwise integrated with a new district so established under any reorganization and/or redistricting, such territorial unit, boundary, or district, special taxing or special charter, which has been abolished for school operating purposes, shall remain as a district for the purpose of the levy and collection of the special taxes theretofore voted in any unit, boundary, or district, special taxing or special charter, for the payment of bonds issued and/or other obligations so assumed, the said territorial boundary, district, or unit shall be maintained until all necessary taxes have been levied and collected therein for the payment of such bonds and/or other indebtedness so assumed. Such boundary, unit, or district shall be known and designated as the ..... "Special Bond Tax Unit" of ..... County.

Designation of such districts.

Tax levies for operating costs made continuing lien.

All uncollected taxes which have been levied in the respective school districts for the purposes of meeting the operating costs of the schools shall remain as a lien against the property as originally assessed and shall be collectible as are other taxes so levied and, upon collection, shall be made a part of the Debt Service fund of the special bond tax unit, along with such other funds as may accrue to the credit of said unit; and in the event there is no debt service requirement upon such district, all amounts so collected for whatever purpose shall be covered into the county treasury to be used as a part of the county debt service for schools: *Provided*, that unpaid teacher's vouchers for the year in which the tax was levied shall be a prior lien: *Provided, further*, that nothing in this Act shall be construed as abolishing special taxes voted in any city administrative unit since July first, one thousand nine hundred thirty-three.

Disposition of unused tax collections.

Lien of unpaid teachers' vouchers.

Special taxes already voted unaffected.

Preparation of operation budgets for local units.

SEC. 17. *The Operating Budget.* It shall be the duty of the county board of education in each county and the school governing authorities in each city administrative unit, upon receipt of the tentative allotment of State funds for operating the schools and the approval of all local funds budgets, including supplements

to State funds for operating schools of a higher standard, funds for extending the term, funds for debt service, and funds for capital outlay, to prepare an operating budget on forms provided by the State and file the same with the State Superintendent of Public Instruction and the State School Commission on or before the first day of October. Each operating budget shall be checked by the State school authorities to ascertain if it is in accordance with the allotment of State funds and the approval of local funds; and when found to be in accordance with same, shall be the total school budget for said county or city administrative unit.

Filed with State Superintendent.

Time of filing.

Approval by State school authorities.

SEC. 18. *Bonds.* That the State School Commission, subject to the approval of the Local Government Commission, shall determine and provide all bonds necessary for the protection of the State school funds.

Bonds for protection of school funds.

That the tax levying authorities in each county and city administrative unit, subject to the approval of the Local Government Commission, shall provide such bonds as the State School Commission may require for the protection of county and district school funds.

Local bonds.

SEC. 19. *Provision for the Disbursement of State Funds.* The payment of the State fund to the county and city administrative units may be made in monthly installments, at such time and in such amounts as may be practical to meet the needs and necessities of the eight months' school term in the various county and city administrative units: *Provided,* that prior to the payment of any monthly installment, it shall be the duty of the county board of education or the board of trustees to file with the State Superintendent of Public Instruction and the State School Commission a certified statement of all salaries, together with all other obligations that may be due and payable, said statement to be filed on or before the fifteenth day of each month next preceding the maturity of the obligations.

Payment of State funds in monthly installments.

Statement by local units as to all obligations due.

Filing date.

When it shall appear to the State School Commission from said certified statement that any amounts are due and necessary to be paid, such amounts shall be certified to the State Superintendent, who shall draw a requisition on the State Auditor covering the same; and upon receipt of notice from the State Treasurer showing the amount placed to their credit, the duly constituted authorities may issue State warrants in the amount so certified: *Provided,* that no funds shall be released for payment of salaries of administrative officers of county or city units if any reports required to be filed with the State School authorities are more than thirty days overdue.

Requisitions for amounts due to meet such obligations.

Withholding funds for overdue reports.

SEC. 20. *How School Funds Shall be Paid Out.* The school funds shall be paid out as follows:

Method of disbursing school funds.

1. State School Funds. That school funds shall be released only on warrants drawn on the State Treasurer signed by the

State warrants.

Execution.

chairman and the secretary of the county board of education for county administrative units, and by the chairman and the secretary of the board of trustees for city administrative units, and countersigned by such officer as the county government laws may require.

County and district warrants.

Execution.

2. County and District Funds. All county and district funds, from whatever source provided, shall be paid out only on warrants signed by the chairman and secretary of the board of education for counties and the chairman and the secretary of the board of trustees for city administrative units and countersigned by such officer as the county government laws may require. Upon

Determination of proportion of taxes levied apportionable to local units.

the basis of budget approval and upon receiving the certificate of per capita enrollment as set out in Section fifteen hereof, the county auditor or accountant shall ascertain and determine the proportion of all taxes levied by the county which shall be apportionable to the county administrative unit and any city administrative unit therein. As taxes are collected within said county,

Apportionable taxes set up as credits of administrative units.

the proportion thereof allocable to the county administrative unit and any city administrative unit in said county shall be set up to the credit of such administrative unit by the county accountant

Disbursement of such funds.

or auditor. All funds due to the county administrative unit set up and ascertained as aforesaid shall be paid out as hereinbefore provided, and all funds due any city administrative unit therein shall be paid out as hereinbefore provided.

Records and reports of expenditures by administrative units.

3. Records and Reports. The State Superintendent of Public Instruction and State School Commission shall have full power and authority to make rules and regulations to prescribe the manner in which records shall be kept by all county and city administrative units as to the expenditure of current expense funds, capital outlay funds, and debt service funds, derived from local sources, and to prescribe for making reports thereof to the State Superintendent of Public Instruction.

Audit of school funds ordered.

SEC. 21. *Audit.* The State School Commission, in cooperation with the State Auditor, shall cause to be made an audit of all

Cost prorated.

school funds, State, county, and district; and the cost of said audit shall be borne by each fund audited in proportion to the total funds audited, as determined by the State School Commission. The tax levying authorities for county and city administrative units shall make provision for meeting their proportionate part of the cost of making said audit, as provided in this Act.

Filing of copies of audits.

That copies of said audits shall be filed with the State School Commission, the State Auditor, and the State Superintendent of Public Instruction not later than October first after the close of the fiscal year.

Workmen's Compensation Act applicable to school employees.

SEC. 22. *Workmen's Compensation and Sick Leave.* The provisions of the Workmen's Compensation Act shall be applicable to all school employees, and the State School Commission shall make such arrangements as are necessary to carry out the pro-

visions of the Workmen's Compensation Act as are applicable to such employees as are paid from State school funds. Liability of the State for compensation shall be confined to school employees paid by the State from State school funds for injuries or death caused by accident arising out of and in the course of their employment in connection with the State operated eight months school term. The State shall be liable for said compensation on the basis of the average weekly wage of such employees as defined in the Workmen's Compensation Act, whether all of said compensation for the eight months school term is paid from State funds or in part supplemented by local funds. The county and city administrative units shall be liable for Workmen's Compensation for school employees whose salaries or wages are paid by such local units from local funds, and such local units shall likewise be liable for Workmen's Compensation of school employees employed in connection with teaching vocational agriculture, home economics, trades and industrial vocational subjects, supported in part by State and Federal funds, which liability shall cover the entire period of service of such employees. Such local units are authorized and empowered to provide insurance to cover such compensation liability and to include the cost of such insurance in their annual budgets.

Compensation liability of State.

Compensation liability of administrative units.

Insurance to cover compensation liability authorized.

The State School Commission is hereby authorized and empowered, in its discretion, to make provision for sick leave with pay for any teacher or principal not exceeding five days and to promulgate rules and regulations providing for necessary substitutes on account of said sick leave. The pay for a substitute shall not exceed three dollars per day.

Provision for sick leave with pay.

The provisions of this section shall not apply to any person, firm or corporation making voluntary contributions to schools for any purpose, and such person, firm or corporation shall not be liable for the payment of any sum of money under this Act.

Voluntary contributors to schools exempt from compensation liability.

SEC. 22½. Children to be entitled to enrollment in the public schools for the school year one thousand nine hundred thirty-nine-forty, and each year thereafter, must be six years of age on or before October first of the year in which they enroll, and must enroll during the first month of the school year.

Age requirement for enrollment in public schools.

Time of enrollment.

SEC. 23. *Purchase of Equipment and Supplies.* It shall be the duty of the county boards of education and/or the governing bodies of city administrative units to purchase all supplies, equipment and materials in accordance with contracts and/or with the approval of the State Division of Purchase and Contract: *Provided,* that no contracts shall be made by any county or city administrative unit for purchases unless provision has been made in the budget of such unit to provide payment therefor, or unless surplus funds are on hand to pay for same, and in order to protect the State purchase contracts, it is hereby made the mandatory duty upon the part of the governing authorities of such

Purchase of supplies through Division of Purchase and Contract.

Prompt payment for purchases made mandatory.

local units to pay for such purchases promptly in accordance with the terms of the contract of purchase.

Determination of manner of heating school buildings.

SEC. 23½. For the purpose of determining the most economical manner and method of heating school buildings, including type of insulation, the school commission in cooperation with State Department of Public Instruction is hereby authorized to conduct experiments in the different types of heating.

Commission to supervise school transportation.

SEC. 24. *School Transportation.* The control and management of all facilities for the transportation of public school children shall be vested in the State of North Carolina under the direction and supervision of the State School Commission, which shall

Rules and regulations.

have authority to promulgate rules and regulations governing the organization, maintenance, and operation of the school transportation facilities. The tax levying authorities in the various counties of the State are authorized and empowered to provide in the Capital Outlay budget adequate buildings and equipment

Provision for equipment and storage.

for the storage and maintenance of all school busses. Provision

Monthly inspection of vehicles.

shall be made for adequate inspection each thirty days of each

Record of inspection.

vehicle used in the transportation of school children, and a record of such inspection shall be filed in the office of the superintendent of the administrative unit. That it shall be the duty of the ad-

Report of inspection.

ministrative officer of each administrative unit to require an adequate inspection of each bus at least once each thirty days, the report or reports of which inspection shall be filed with the administrative officers. Every principal, upon being advised of

Report of defects found.

any defect by the bus driver, shall cause a report of such defect to be made to this administrative officer immediately, whose duty it

Defects remedied.

shall be to cause such defect to be remedied before such bus can

Use of busses limited.

be further operated. The use of school busses shall be limited to the transportation of children to and from school for the regularly organized school day.

Provision for operation of school busses during extended term.

The State School Commission is authorized and empowered, under rules and regulations to be adopted by said school commission, to permit the use and operation of school busses during the extended term in any administrative unit; but such administrative unit shall be responsible for the costs of operating such school busses during such extended term and shall be liable for Workmen's Compensation in connection therewith.

Voluntary contributors exempted from liability for payments hereunder.

The provisions of this section shall not apply to any person, firm or corporation making voluntary contributions to schools for any purpose, and such person, firm or corporation shall not be liable for the payment of any sum of money under this Act.

Bus routes established by Commission in cooperation with district officials.

SEC. 25. *Bus Routes.* In establishing the route to be followed by each school bus operated as a part of the State school transportation system, in all schools where transportation is now or may hereafter be provided, the State School Commission shall, in cooperation with the district principal, unless road or other

conditions make it inadvisable, route the busses so as to get within one mile of all children who live more than one and one half miles from the school to which they are assigned: *Provided*, that all routes so established shall be subject to the approval of the county board of education. The State shall not be required to provide transportation for children living within one and one half miles of the school in which provision for their instruction has been made. All bus routes thus established shall be filed with the county board of education prior to the opening of school; and in the event any of said routes are disapproved by the county board of education, notice of same shall be filed with the State School Commission, and a hearing on such appeal shall be had by said commission within thirty days.

All routes subject to approval of local authorities.

Transportation facilities limited.

Record of established bus routes filed with County Board of Education.

Notice of disapproval of routes.

Hearing.

SEC. 26. *Purchase of New Equipment.* It shall be the duty of the tax levying authorities in the various counties, and they are hereby authorized, empowered, and directed to make provision in the Capital Outlay budget for the purchase under State contract of new busses needed to relieve overcrowding and to provide for the transportation of children not transported during the school year one thousand nine hundred thirty-nine. The county boards of education shall determine when the busses are overcrowded, and the State shall provide for the operation of all new busses purchased by the counties. It shall be the duty of the State of North Carolina to purchase all school busses used as replacements for old publicly owned busses which were operated by the State during the school year one thousand nine hundred thirty-eight, thirty-nine. It shall be the duty of the State School Commission to promulgate rules and regulations that will insure for the children the greatest possible safety, including a standard signaling device for giving the public due notice that the bus is making a stop. Before purchasing any new school busses, the State School Commission shall cause to be made a thorough study of the most modern materials and construction for insuring the safest equipment possible within the funds available. The State School Commission, in its discretion, may effect fire insurance coverage on the school busses, or act as a self-insurer.

Purchase of new equipment.

Purchase of new busses to relieve overcrowding.

Purchase of busses used as replacements.

Provisions for safety of pupils.

Standard signaling device.

Insurance coverage on busses.

SEC. 27. *Bus Drivers.* The authority for selecting and employing the drivers of school busses shall be vested in the principal or superintendent of the school at the termination of the route, subject to the approval of the school committeemen or trustees of said school and the county or city superintendent of schools: *Provided*, that each driver shall be selected with a view to having him located as near the beginning of the truck route as possible; and it shall be lawful to employ student drivers wherever such is deemed advisable. The salary paid each employee in the operation of the school transportation system shall be in accordance with a salary schedule adopted by the State School Commission for that particular type of employee.

Employment of bus drivers by principal, subject to approval of district committee, county or city superintendent.

Student drivers.

Salary.

Transportation by contract with private operators.

SEC. 28. *Contract Transportation.* In counties where school transportation is provided by contract with private operators, the State shall provide funds for operating costs on the standards adopted for publicly owned busses, and it shall be the duty of the tax levying authorities in the various counties to provide in the Capital Outlay budget the additional funds necessary to pay contracts.

Cooperation with Highway and Public Works Commission for repairs and maintenance.

SEC. 29. *Cooperation with Highway and Public Works Commission in Maintenance of Equipment.* The State School Commission is hereby authorized to negotiate with the Highway and Public Works Commission in coordinating all facilities for the repair, maintenance, and upkeep of equipment to be used by the State School Commission in the school transportation system. In all cases where this is done, the State Highway and Public Works Commission shall be reimbursed in the amount of the actual cost involved for labor and parts to be determined by an itemized statement filed with the State School Commission.

Reimbursement.

Provision for lunch room in schools.

SEC. 30. *Lunch Rooms May Be Provided.* In such cases as may be deemed advisable by the trustees or school committee in any school, and where the same may be deemed necessary because of the distance of the said school from places where meals may be easily obtained, it shall be permissible for the said trustees and the said school committees, as a part of the functions of the said public schools, to provide cafeterias and places where meals may be sold, and operate or cause the same to be operated for the convenience of teachers, school officers, and pupils of the said schools. There shall be no personal liability upon the said trustees and school committees, or members thereof, arising out of the operation of the said eating places, and it is understood and declared that the same are carried on and conducted in connection with the public schools, and because of the necessities arising out of the consolidation of the said schools and the inconvenience and interruption of the school day caused by seeking meals elsewhere: *Provided,* that no part of the appropriation made by the State for the public schools shall be expended for the operation of said cafeterias or eating places, nor shall the provisions of Section twenty-two of this Act apply to the employees of the cafeterias or eating places, except such persons as are regularly employed otherwise in the schools.

School officials not personally liable in connection with operation.

No part of State allotment to be used for purpose.

Accounting as to special school funds.

Duties of county superintendent.

Quarterly examinations of records.

SEC. 31. *Miscellaneous Funds.* It shall be the duty of the county superintendent of public instruction to examine the records of the county to see that the proceeds from the poll taxes and the dog taxes are correctly accounted for to the school fund each year, and to examine the records of the several courts of the county, including courts of justices of the peace, at least once every three months to see that all fines, forfeitures, and penalties, and any other special funds accruing to the county school fund, are correctly and promptly accounted for to the school fund; and if the superintendent shall find that any such taxes or fines

are not correctly and promptly accounted for to the school fund, it shall be his duty to make prompt report thereof to the State School Commission and also to the solicitor of the Superior Court holding the courts in the district.

Reports of delinquents to Commission and solicitors.

It shall be unlawful for any of the proceeds of poll taxes, dog taxes, fines, forfeitures, and penalties to be used for other than school purposes, and the official responsible for any diversion of such funds to other purposes shall be guilty of a misdemeanor and, upon conviction, shall be punishable by fine or imprisonment, in the discretion of the court: *Provided, however,* that this section shall not be construed as making unlawful the use of such portions of said funds for other purposes as may be provided by the provisions of this Act. The clear proceeds of poll taxes, dog taxes, fines, forfeitures and penalties shall be accounted for by the officers collecting the same, and no deductions shall be made therefrom for fees or commissions. Any court officer, including justices of the peace, who shall wilfully fail or refuse to account for all poll taxes, dog taxes, fines, forfeitures or penalties coming into the hands of such officer, shall, upon conviction thereof, be guilty of a felony and imprisoned in the State's prison in the discretion of the court, or fined in the discretion of the court, or both.

Special funds directed to school use.

Diversion made misdemeanor.

Exception.

Accounting by officers as to poll taxes, fines, etc. required.

Failure to account for taxes, fines, etc. made felony.

SEC. 32. All Public, Public-Local, or Private Laws and clauses of laws in conflict with this Act, to the extent of such conflict only, are hereby repealed. If any section, part, paragraph, sentence, or clause of this Act shall be declared unconstitutional or invalid, the same shall not affect the validity of any of the remaining parts of this Act. The provisions of this Act shall not be construed as repealing Chapter three hundred three Public Laws of one thousand nine hundred thirty-seven or any part thereof: *Provided, further,* nothing in this Act shall be so construed as to repeal Chapter two hundred eight of the Public-Local Laws of one thousand nine hundred thirty-seven, as amended by House Bill Number six hundred seventy-five session of one thousand nine hundred thirty-nine.

Conflicting laws repealed.

Partial invalidity section.

SEC. 33. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 868 **CHAPTER 359**

AN ACT TO AMEND SECTION ONE THOUSAND ONE HUNDRED TWENTY-THREE OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA AND CHAPTER EIGHTY-THREE OF THE PUBLIC LAWS OF NORTH CAROLINA OF ONE THOUSAND NINE HUNDRED TWENTY-THREE, RELATING TO THE FORMATION OF CORPORATIONS FOR THE CONDUCT AND MANAGEMENT OF PLAYGROUNDS AND OTHER RECREATIONAL FACILITIES.

The General Assembly of North Carolina do enact:

C. S. 1123, as to public park corporations, amended.

SECTION 1. That Section one thousand one hundred twenty-three of the Consolidated Statutes of North Carolina be amended by adding at the end thereof the following:

"Public parks and drives" to include playgrounds, etc. established under sponsorship of local units, Scotland County.

"*Provided* that the terms, 'public parks and drives,' as used in this section, shall be construed so as to include playgrounds, recreational centers, and other recreational activities and facilities which may be provided and established under the sponsorship of any county, city, town, township, or school district in North Carolina and constructed or established with the assistance of the Government of the United States or any agency thereof."

Ch. 83, Public Laws, 1923, amended to permit management of recreational centers, etc. by public park corporations.

SEC. 2. That Section three of Chapter eighty-three of the Public Laws of North Carolina of one thousand nine hundred twenty-three, be, and the same is hereby amended by inserting in line eight thereof, after the words "park board", and before the word "or", the words "or corporation organized under Section one thousand one hundred twenty-three of the Consolidated Statutes of North Carolina as amended by this Act."

SEC. 3. This Act shall apply only to Scotland County.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 905

CHAPTER 360

AN ACT TO PROVIDE FOR THE CONTROL OF LIVESTOCK DISEASES.

The General Assembly of North Carolina do enact:

Permit from State Veterinarian for sale, transportation, etc of animals affected with disease.

SECTION 1. That no person or persons shall sell, trade, offer for sale or trade, or transport by truck or other conveyance on any public road or other public place within the State any animal or animals affected with a contagious or infectious disease, except upon a written permit of the State Veterinarian and in accordance with the provisions of said permit. The State Veterinarian, or his authorized representative, is hereby empowered to examine any livestock that are being transported or moved, sold, traded, offered for sale or trade on any highway or other public place within the State for the purpose of determining if said animals are affected with a contagious or infectious disease, or are being transported or offered for sale or trade in violation of this Act. If the animals are found to be diseased or are being moved, sold, offered for sale or trade in violation of this Act, they shall be placed under quarantine in accordance with the provisions of this Act in a place to be determined by the State Veterinarian or his authorized representative. Any animal or animals shipped or otherwise moved into this State in violation of Federal laws or regulations shall be handled in accordance with the provisions of this Act.

Examination by State Veterinarian of livestock offered for sale, trade, etc.

Quarantine of diseased animals or animals sold, traded, etc. in violation of this Act.

SEC. 2. That the State Veterinarian, or his authorized representative, is hereby authorized to quarantine any animal or animals affected with, exposed to, or injected with any material capable of producing a contagious or infectious disease, and to give public notice of such quarantine by posting or placarding the entrance to or any part of the premises on which the animals are held with a suitable quarantine sign, said animal or animals to be maintained by the owner or person in charge, as provided for in this Act, at the owner's expense. No animal or animals under quarantine shall be moved from the premises except upon a written permit from the State Veterinarian or his authorized representative. Said quarantine shall remain in effect until cancelled by official notice from the State Veterinarian and shall not be cancelled until the sick and dead animals have been properly disposed of and the premises have been properly cleaned and disinfected.

Notice of quarantine.

Written permit from State Veterinarian for moving quarantined animals.

Duration of quarantine.

Confinement and isolation of diseased animals required.

SEC. 3. That any animal or animals affected with or exposed to a contagious or infectious disease shall be confined by the owner or person in charge of said animal or animals in such a manner, by penning or otherwise securing and actually isolating same from the approach or contact with other animals not so affected; that they shall not have access to any ditch,

canal, branch, creek, river, or other water course which passes beyond the premises of the owner or person in charge of said animals, or to any public road, or to the premises of any other person.

Disposition of dead animals.

SEC. 4. That it shall be the duty of the owner or person in charge of any animal or animals that die from any cause to promptly bury same to a depth of at least three feet beneath the surface of the ground or to completely burn said animal or animals, or otherwise dispose of same in a manner approved by the State Veterinarian.

Written permit from State Veterinarian for sale, use or distribution of hog cholera virus, etc.

SEC. 5. That no hog cholera virus or other product containing live virus or organisms of animal diseases shall be distributed, sold, or used within the State unless permission has been given in writing by the State Veterinarian for such distribution, sale, or use, said permission to be cancelled by the State Veterinarian when he deems same necessary: *Provided*, that the provisions of this section shall not apply to any county having a local law providing for the vaccination of hogs against cholera.

Exception.

Violations made misdemeanor.

SEC. 6. That any person or persons who shall knowingly and willfully violate any provisions of this Act shall be guilty of a misdemeanor.

Macon County exempt.

SEC. 7. That nothing in this Act shall apply to Macon County.

Conflicting laws repealed.

SEC. 8. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 9. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 920 CHAPTER 361

AN ACT TO AMEND CHAPTER THREE HUNDRED AND TWENTY-SIX, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-FIVE, AS AMENDED BY CHAPTER ONE HUNDRED AND TWENTY-FIVE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, RELATING TO THE STATE BOILER AND INSPECTION LAW.

The General Assembly of North Carolina do enact:

Ch. 125, Public Laws, 1937, amended to re-enact 1935 Law as to inspection of boilers, etc.

SECTION 1. That Section two of Chapter one hundred and twenty-five of the Public Laws of one thousand nine hundred and thirty-seven, be and the same is hereby repealed and Sec-

tion ten of Chapter three hundred and twenty-six of the Public Laws of one thousand nine hundred and thirty-five be and the same is hereby reenacted in its entirety.

SEC. 2. That Section thirteen of Chapter three hundred and twenty-six of the Public Laws of one thousand nine hundred and thirty-five, as amended by Chapter one hundred and twenty-five of the Public Laws of one thousand nine hundred and thirty-seven, be and the same is hereby amended to read as follows: Ch. 326, Public Laws, 1935, State Boiler and Inspection Law, amended.

"SECTION 13. The owner or user of a steam boiler, required by this Act to be inspected by the Chief Boiler Inspector or a deputy inspector, shall pay to the inspector six ($6.00) dollars for each fire tube boiler over thirty inches in diameter internally inspected and four ($4.00) dollars for each fire tube boiler over thirty inches in diameter externally inspected while under pressure and shall pay to the inspector four ($4.00) dollars for each fire tube boiler up to and including thirty inches in diameter internally inspected and three ($3.00) dollars for each fire tube boiler up to and including thirty inches in diameter externally inspected while under pressure. All water tube boilers shall be charged six ($6.00) dollars for each internal inspection and four ($4.00) dollars for each external inspection while under pressure. Not more than ten ($10.00) dollars shall be collected for any one fire tube boiler over thirty inches in diameter for any one year. Not more than seven ($7.00) dollars shall be collected for any one fire tube boiler up to and including thirty inches in diameter for any one year. Not more than ten ($10.00) dollars shall be collected for any water tube boiler for any one year: *Provided*, that one ($1.00) dollar of each internal inspection fee shall be the fee for the certificate of inspection required by Section ten of this Act. The inspector shall give receipts for said fees and shall pay all sums so received to the Commissioner of Labor, who shall pay the same to the Treasurer of the State. The Treasurer of the State shall hold the fees collected under this section and under Section ten in a special account to pay the salaries and expenses incident to the administration of this Act, the surplus, with the approval of the Director of the Budget, to be added to the appropriation of the Division of Standards and Inspections of the Department of Labor for its general inspectional service." Boiler inspections. Inspection fees. Maximum fees. Payment to Commissioner of Labor for transfer to State Treasurer. Disbursement by State Treasurer. Surplus to Division of Standards and Inspection, Dept. of Labor.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 922 CHAPTER 362

AN ACT TO APPOINT JUSTICES OF THE PEACE FOR THE SEVERAL COUNTIES OF NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Biennial appointment of Justices of the Peace.

Term of office.

Qualification.

SECTION 1. That the following named persons be, and they are hereby, appointed Justices of the Peace for their respective townships and counties in North Carolina for a term of six years, except when a different time is named herein, said terms to begin on the first day of April, one thousand nine hundred and thirty-nine, or when their present terms expire: *Provided,* that they may qualify at any time within ninety days after the first day of April, one thousand nine hundred and thirty-nine.

Alamance County.

ALAMANCE COUNTY

Boone Station Township—W. P. Ireland.
North Burlington Township—L. A. Lutterloh.
South Burlington Township—Claude Cates.
Faucett Township—A. O. Huffman.
Graham Township—J. M. Buckner.
Patterson Township—C. L. Moser
Newlin Township—J. M. Faust.

Ashe County.

ASHE COUNTY

Chestnut Hill Township—W. H. McMillan, Wiley Blevins.

Clifton Township—John M. Burkett, W. H. Jones, S. W. James, R. A. Jones, J. S. Sapp.

Creston Township—Thomas Latham, S. C. Arnold, Cleve Johnson.

Grassy Creek Township—A. J. Blevins, W. P. Colvard.

Helton Township—I. G. Spencer, Bryan Kirby, Clay Kilby.

Horse Creek Township—C. L. Goss, E. W. Stansberry.

Hurricane Township—Fred Blevins, Glenn Weaver.

Jefferson Township—R. A. Hamilton, R. Q. Bare, W. C. Smith, Paul Williams, A. G. Witherspoon.

Laurel Township—Bruce Graybeal, Arthur Oliver.

North Fork Township—B. H. Duncan, R. P. Lewis.

Obids Township—D. C. Miller, D. H. Burgess.

Old Fields Township—R. V. Lemly, J. W. Duncan.

Peak Creek Township—R. L. Austin, Thomas Pennington.

Piney Creek Township—Howard Blevins, W. M. Shumate, G. V. Stansberry.

Pine Swamp Township—H. H. Lemly, Worth McNeill, J. F. Hartzog, R. G. Phillips.

Pond Mountain Township—B. F. Kilby, Bryan Davis, C. H. Eldreth.

West Jefferson Township—H. C. Tucker, Gale McMillan, C. M. Payne.

Walnut Hill Township—L. D. Baker, A. P. Barker, Gwyn Denney.

AVERY COUNTY

Avery County.

Altamont Township—T. C. Hicks (two years), Gurney Franklin, C. L. Franklin (four years), Martin Johnson (four years).
Beech Mountain Township—A. I. Greene (four years).
Cranberry Township—W. W. Pyatte (two years), M. F. Fields.
Cranberry Township—Claude Isaacs (four years).
Linville Township—J. W. Coffey, Finley Banner, W. T. Cope, W. S. Bowman, Ben Isaacs, John Franklin, Phil S. Jones (four years).
Roaring Creek Township—Charles Watson, D. A. Arnett (four years), Vance Palmer (two years).

BEAUFORT COUNTY

Beaufort County.

Bath Township—L. L. Tankard (four years).
Pantego Township—P. H. Johnson (four years).

BERTIE COUNTY

Bertie County.

Colerain Township—W. S. Taylor (two years).
Merry Hill Township—J. T. Keeter (two years).
Mitchell Township—Lacy M. Early.
Woodville Township—R. N. Hoggard.

BLADEN COUNTY

Bladen County.

Whites Creek Township—N. G. Daniel.
Bethel Township—Charles Brisson.
Bladenboro Township—Amsey A. Hillburn, Sr., J. P. Hester.
French Creek Township—W. B. Brinkley.
Carver's Creek Township—C. B. Holmes.

BRUNSWICK COUNTY

Brunswick County.

Smithville Township—Charlie Phillips.

BUNCOMBE COUNTY

Buncombe County.

Asheville Township—Thomas M. Duckett, J. D. Moore, W. H. Pearson, Zebulon A. Shipman, Alex P. Digges.
Flat Creek Township—Kenneth G. Roberts, Enoch Morgan.
Swananoa Township—W. J. Parks.
Upper Hominy Township—B. U. Warren, Max D. Miller.

BURKE COUNTY

Burke County.

Drexel Township—Julius Page, Jr.
Icard Township—D. A. Hutto, Hugh L. Lee, Earnest Yoder.

Lovelady Township—Oscar A. Abee.
Lower Creek Township—W. A. Cook.
Silver Creek Township—W. J. Gurley, J. M. Shull, M. N. Hennessee.
Morganton Township—I. T. Avery.

Camden County.

CAMDEN COUNTY

Camden Township—H. G. Berry, W. W. Morrissett, S. B. Seymour, R. T. Whaley.
Shiloh Township—G. S. Staples.
Old Trap Township—William Harrison.
South Mills Township—J. W. Jones.

Carteret County.

CARTERET COUNTY

Beaufort Township—E. M. Chaplin.
Newport Township—A. J. Slaughter.
Hunting Quarter Township—Allen Hamilton.

Caswell County.

CASWELL COUNTY

Anderson Township—W. S. Stainback, J. M. Hurdle, F. B. Goodson.
Dan River Township—C. S. Walters, W. L. Neal, J. W. Powell, T. H. Hodges.
Hightowers Township—H. V. Clayton, L. L. Nelson, Jos. H. Warren, W. L. Compton.
Leasburg Township—W. P. Cook, G. W. Connolly.
Locust Hill Township—J. A. Cobb, Herbert White, O. Lee Cobb.
Milton Township—Arch Thomas, W. L. Taylor, N. J. Taylor, S. M. Jones, W. T. Long, M. T. Gatewood.
Pelham Township—J. S. Davis, R. W. Duncan, W. M. Zimmerman, J. C. Womack.
Stoney Creek Township—W. F. Shaw, J. B. Turner.
Yanceyville Township— A. Y. Kerr, J. A. Murray, C. V. McKinney, J. O. Gwynn, Geo. A. Anderson.

Catawba County.

CATAWBA COUNTY

Brandy's Township—Mrs. E. M. Bledsoe, Fred Asherbrannen.
Caldwell Township—E. G. Abernathy.
Clines Township—Lester L. Hoke.
Jacobs Fork Township—C. E. Finger.
Hickory Township—E. W. Kloss, O. E. Sigmon, R. M. Taylor, H. A. Nichols, Mrs. Maude F. Shuford.
Newton Township—R. P. P. Wilkinson.

CHATHAM COUNTY

Chatham County.

Albright Township—W. H. Brookbank, S. P. Teague, J. B. Ingle.
Baldwin Township—C. A. Snipes.
Bear Creek Township—W. T. Brooks, C. B. Beal, H. H. Dunlap.
Cape Fear Township—B. M. McIver, W. F. Olinger.
Matthews Township—F. E. Womble, Hal Clark.
New Hope Township—N. J. Wilson.
Oakland Township—James Knight, H. T. Matthews.

CHEROKEE COUNTY

Cherokee County.

Murphy Township—G. A. Hembree.
Shoal Creek Township—K. W. Shearer, Roy McHan.
Valleytown Township—H. H. Hyde, D. B. Wright.

CHOWAN COUNTY

Chowan County.

First Township—C. T. Griffin, W. A. Everett (two years), W. S. Summerell, F. W. Hobbs.
Second Township—C. W. Blanchard, J. N. Jordan.
Third Township—T. L. Ward.
Fourth Township—W. D. Moran.

CLAY COUNTY

Clay County.

Brasstown Township—Ed L. Arrant, D. Hall.
Hayesville Township—Ralph Beal, B. H. Martin, Homer Auberry.
Hiawassee Township—Ben Brown, Thomas Cassada.
Shooting Creek Township—Henry Kitchens, R. P. Palmer.
Sweetwater Township—C. A. Auberry, Fred Curtis.
Tusquittee Township—Frank Moore, Van Evans, N. F. Robinson, T. C. Melton.
(All for four years)

COLUMBUS COUNTY

Columbus County.

Chadbourn Township—Luther Hammond.
Lees Township—A. C. Coleman.
Ransom Township—W. C. Page, Jr.
Western Prong Township—W. L. Beasley.
Whiteville Township—E. A. Maultsby.
(All for four years)

CUMBERLAND COUNTY

Cumberland County.

Gray's Creek Township—Gordon Marsh.

Currituck County.

CURRITUCK COUNTY

Crawford Township—Jas. A. Taylor, J. P. Barnard, G. W. Meiggs.
Fruitville Township—Earnest L. Waterfield, C. E. Parker.
Moyock Township—Luther Coppersmith.
Poplar Branch Township—T. G. Dowdy, W. P. Wright, Graham Woodhouse.

Dare County.

DARE COUNTY

Kennekeet Township—U. G. O'Neal.

Davidson County.

DAVIDSON COUNTY

Boone Township—J. L. Fitzgerald.
Emmons Township—C. H. Surratt.
Lexington Township—B. B. Beck.
Tyro Township—W. J. Giles, Walter Craver.
Thomasville Township—John W. Bowers.

Davie County.

DAVIE COUNTY

Jerusalem Township—K. L. Cope.
Shady Grove Township—F. J. Felker.

Duplin County.

DUPLIN COUNTY

Faison Township—James G. Dickson, H. C. Jennett.

Durham County.

DURHAM COUNTY

Durham Township—Z. A. Rochelle, E. H. Chappell, Robert E. Terry.

Edgecombe County.

EDGECOMBE COUNTY

Number Ten Township—L. A. Mattox.

Gaston County.

GASTON COUNTY

Crowders Mountain Township—George A. Hook, J. R. Carson.
Southpoint Township—A. M. Suggs, John F. Bolling, J. L. Brittain.

Gates County.

GATES COUNTY

Gatesville Township—J. A. Eason, H. V. Beamon.
Hall Township—R. C. Cooper, J. H. Lilley, C. E. Sawyer.
Hasletts Township—J. T. Matthews, W. J. Boone.
Holly Grove Township—J. E. L. Morgan, S. E. Riddick, L. E. McCoy.

Hunter's Mill Township—J. W. Overman, C. T. McCotter, B. H. Ward, J. Edgar Speight.
Reynoldson Township—R. E. Lawrence, John T. Eure, M. P. Gatling.
(All for two years)

GRAHAM COUNTY Graham County.

Cleoah Township—Hardy Davis.
Japan Township—Vencent Pilkenton.
Stecoah Township—Arthur Fisher.
Tuskeegee Township—Spergen Bredlove.
Yellow Creek Township—Roy Sherrill, Ader Odum.

GRANVILLE COUNTY Granville County.

Salem Township—Harrold L. O'Brien.
Tally Ho Township—L. J. Gooch (four years).
Oxford Township—D. C. Hunt (four years).
Fishing Creek Township—L. L. Hudson (four years).
Dutchville Township—I. E. Harris (four years).

GREENE COUNTY Greene County.

Snow Hill Township—L. L. Lassiter.

GUILFORD COUNTY Guilford County.

Friendship Township—W. H. Blaylock.
Sumner Township—J. D. Shakelford, C. W. Allen.
South Monroe Township—H. R. Rudd.
South Washington Township—George Sockwell.
(All for four years)

HALIFAX COUNTY Halifax County.

Brinkleyville Township—J. E. Wood, J. R. Taylor, Robert H. Arrington, T. C. Qualls.
Enfield Township—J. L. Bellamy, R. E. Shervette.
Weldon Township—Dr. W. A. Carter, J. P. Holoman.
Palmyra Township—R. H. White, E. C. Ruffin (four years), D. E. Priest (two years).

HARNETT COUNTY Harnett County.

Anderson Creek Township—Lester Hill.
Black River Township—A. C. Barefoot.
Duke Township—L. E. Stancil, L. B. McLean.
Grove Township—C. J. Turlington.
Lillington Township—C. H. Biggs, T. R. Brown.
Neills Creek Township—Jessie Keith.

Stewarts Creek Township—W. C. Melvin, Jr.
Johnsonville Township—John Smith.
Aversboro Township—R. F. Jernigan.

Haywood County.

HAYWOOD COUNTY

Beaverdam Township—Ralph R. Mease, Albert Curtis, Forrest Sorrels, E. P. Ball, Jack Worley, S. H. Justice, W. W. Pless, C. F. Smathers, Carl Blalock.
Cattalochee Township—Mac Caldwell.
Cecil Township—Kenneth Browning, Charles Moody.
Clyde Township—Grover Rogers, N. C. West, F. E. Haynes.
Crabtree Township—W. B. Bradshaw, W. Jennings McCrary.
East Fork Township—Luther Pless, Bryan Heatherly, Shay Henson, Frank Sellers, Isaac Grogan, Joe Michael.
Fines Creek Township—Steve Ferguson, Roy Rogers, John Fincher, Charles McCracken.
Iron Duff Township—J. Manson Medford, Horace Bryson.
Ivy Hill Township—J. R. Plott, A. R.MeHaffey, Crockett Campbell, J. F. Shelton.
Jonathan Creek Township—John Howell, Robert Howell.
Pigeon Township—Gaston Burnette, Ellis Burnette, Walker Brown, Ralph Moore, John D. Cathey.
White Oak Township—B. Z. Green.
Waynesville Township—C. B. Atkinson, Frank Ferguson, R. Q. McCracken, J. T. Coman.

Hertford County.

HERTFORD COUNTY

Ahoskie Township—C. B. Vaughan, W. P. McGlohon, J. H. Young, J. N. Vann, J. C. Jenkins.
Aulander Township—C. T. White.
Harrellsville Township—R. C. Mason, Jr., W. J. Nichols.
Cofield Township—George Myers.
Maney's Neck Township—H. McD. Spires, E. W. Evans, J. C. Taylor.
Murfreesboro Township—S. L. Griffith, R. H. Underwood, J. K. Parker.
Winton Township—P. S. Jordan, W. L. Daniels.

Hoke County.

HOKE COUNTY

Allendale Township—W. J. McLauchlin.
Antioch Township—J. A. Hodgen.
Quwhifle Township—J. B. Womble.
Raeford Township—J. E. Conley, Hue Currie.
Stonewall Township—N. A. McInnis.
McLauchlin Township—A. A. McInnis.

HYDE COUNTY

Hyde County.

Currituck Township—Norwood J. Creedle, A. B. Lupton.
Fairfield Township—Archie Berry, A. B. Harris.
Lake Landing Township—Limmie M. Cahoon, John C. Respass, J. M. Cox, S. D. Cox.
Ocracoke Township—Amasa Fulcher, Wahab Howard, David Gaskill.
Swan Quarter Township—R. E. Tunnell, R. H. Tunnell, J. A. Harris.
(All for two years)

IREDELL COUNTY

Iredell County.

Bethany Township—J. P. Ingram.
Chambersburg Township—B. C. Howard.
Coddle Creek Township—C. E. Hawthorne, Vernie Goodman.
Concord Township—I. S. Connelly, H. W. Watts.
Eagle Mills Township—T. L. Barnard, J. R. Joyner, T. G. Wallace.
Fallston Township—G. M. Young, W. C. Perry.
New Hope Township—G. W. Harris, H. A. Hope.
Olin Township—S. R. Jurney.
Sharpesburg Township—W. B. McLelland.
Turnersburg Township—A. Milton Gaither, B. L. Gatton.
Union Grove Township—H. P. Van Hoy.

JACKSON COUNTY

Jackson County.

Cashier's Valley Township—J. C. Passmore, C. G. Rogers.
Caney Fork Township—J. C. Shuler, Oscar Lovedahl.
Cullowhee Township—John Phillips, R. L. Knight.
Hamburg Township—W. A. Taylor, Freeman Fowler, W. A. Henson.
Mountain Township—John B. Bumgarner.
River Township—Will Adams, Walter Jackson.
Webster Township—N. D. Davis, Dennis Higdon.
Scott's Creek Township—G. C. Crawford, Rickman Henson, Roy Blanton.
Dillsboro Township—Tom Rogers, N. C. Brown.
Barker's Creek Township—Dee Denton, Lyle Jones.
Qualla Township—J. C. Hayes, Ed Hyatt, R. F. Hall.
Green's Creek Township—Colman Green, R. S. Cowan, Bragg Allison.
Savannah Township—R. O. Higdon, John C. Jones, Richmond Deitz.
Canada Township—W. T. Rigdon, Elias Galloway, Mitchell Shelton.
Sylva Township—Mont Jamison, Chas. Evans.

Johnston County.

JOHNSTON COUNTY

Beulah Township—A. G. Hooks, L. Z. Woodard.
Cleveland Township—Milton Johnson, W. L. Carroll.

Jones County.

JONES COUNTY

Beaver Creek Township—F. W. Pollock, Joe Becton.
Cypress Creek Township—J. L. Hammond.
Pollocksville Township—J. C. Moore.
Tuckahoe Township—Jno. M. Dixon.
White Oak Township—C. M. Bynum, W. E. Rayford, A. A. Eubank (four years each).

Lenoir County.

LENOIR COUNTY

Institute Township—J. Paul Hill (four years).
Kinston Township—H. D. Dupree, W. F. Harding (two years).
Mosley Hall Township—Stewart Wooten, R. L. Uzzell (two years).
Woodington Township—Oscar Waller (two years).

Lee County.

LEE COUNTY

West Sanford Township—K. L. Baldwin.

Macon County.

MACON COUNTY

Ellijay Township—Grady Henry, Abraham Young.
Franklin Township—W. T. Moore, J. E. Myers, J. J. Mann, George Carpenter.
Burnington Township—Robert Parrish, Will Rowland, Arthur Mosteller.
Cartoogechaye Township—John Dalrymple, Dan Sweatman, C. S. Slagle.
Cowee Township—Frank Browning, Fred Moore, Robert Gibson, John H. Dalton.
Flats Township—Earl Dryman.
Highlands Township—Porter Pierson, C. J. Anderson.
Millshoal Township—Harve G. Cabe, Wayne McCracken.
Nantahala Township Number One—Luther Jacobs.
Nantahala Township Number Two—Mark Shields.
Smith's Bridge Township—Robert Stewart, J. E. Cabe, Jim Justice.
Sugarfork Township—W. A. Keener, Ezra Shook.

Madison County.

MADISON COUNTY

Number One Township—H. K. Ramsey, Roy L. Gudger, S. B. Roberts.

Number Two Township—Jim Wallin, A. C. Gentry, M. H. Tweed.
Number Three Township—John Merrill.
Number Four Township—Sam Angel, Woodson W. Metcalf.
Number Five Township—Grady Wallin, Fred English.
Number Six Township—Chester Brown.
Number Seven Township—Jumbo Tweed, Joe Payne.
Number Eight Township—Verne Lankford, B. F. Reese.
Number Nine Township—Jennings Runnion, C. L. Stamey.
Number Ten Township—Jake Stines.
Number Eleven Township—C. N. Willis.
Number Twelve Township—Steve Worley.
Number Thirteen Township—Lester Foster, J. T. Blankenship.
Number Fourteen Township—Abe Coates, John R. Ramsey.
Number Fifteen Township—John Robert Anderson, Fred Jervis, Ellis Reese.
Number Sixteen Township—Aubrey Lewis.

MARTIN COUNTY

Martin County.

Bear Grass Township—A. B. Ayers.
Cross Roads Township—C. B. Riddick.
Goose Nest Township—R. R. Rawls, E. V. Smith.
Griffins Township—Plenny Peel, J. C. Gurkin.
Hamilton Township—J. A. Davenport, M. D. Beach, George H. Leggett.
Jamesville Township—A. Corey, E. H. Ange.
Poplar Point Township—W. S. White, LeRoy Taylor.
Robersonville Township—C. M. Hurst, John T. Ross.
Williams Township—L. J. Hardison.
Williamston Township—J. L. Hassell.
(All for four years).

MECKLENBURG COUNTY

Mecklenburg County.

Charlotte Township—Thomas J. Gribble, C. B. Atkins.
Huntersville Township—Earnest Parker Page.
Deweese Township—Webb Thompson.
Lemley Township—J. M. Hubbard, H. C. Knox.
Long Creek Township—Harry Lawing.
Pineville Township—Walter Squires.

MITCHELL COUNTY

Mitchell County.

Bakersville Township—Brown McKimmy, Lane Wilson, C. R. Vinson, J. H. Davis (two years).
Grassy Creek Township—Herbert Dobson, Reid Quinn.
Snow Creek Township—D. T. Fortner, Charles Howell.

Moore County.

MOORE COUNTY

Ben Salem Township—Daniel McKenzie.
Ritter Township—J. R. Brewer.
Sheffield Township—S. L. Brown, W. H. Scott.
Greenwood Township—J. R. Long.
Deep River Township—L. W. Edwards, George Willcox.
Mineral Springs Township—M. L. Morris, Jesse Claude Frye.

McDowell County.

MCDOWELL COUNTY

Old Fort Township—John V. Robinson.

Nash County.

NASH COUNTY

Bailey Township—C. H. Eatman.
Mannings Township—J. J. Sanders, C. H. May, H. L. Windley.

Northampton County.

NORTHAMPTON COUNTY

Gaston Township—M. C. Vincent.
Jackson Township—P. M. Fleetwood.
Kirby Township—J. T. Nelson.
Rich Square Township—R. B. Benthall, J. Buxton Weaver, E. Floyd Outland.
Roanoke Township—W. F. Nelson, J. R. Baugham.
Seaboard Township—W. P. Stephenson, Z. L. Davenport.
Wiccacanee Township—J. M. Archer.

Pamlico County.

PAMLICO COUNTY

Number One Township—E. J. Harris, W. H. Dixon, W. E. Puckett.
Number Two Township—T. T. Gaskins.
Number Three Township—E. M. Harris.
Number Four Township—B. B. Mayo, F. W. Alcock, W. J. Whitfield.
Number Five Township—R. H. Hardison, Albert R. Conner.

Perquimans County.

PERQUIMANS COUNTY

Bethel Township—J. C. Hobbs.
Belvidere Township—J. T. Lane.
New Hope Township—N. C. Haskett.
Parkville Township—D. L. Barber.

Person County.

PERSON COUNTY

Flat River Township—J. O. Pearce.
Holloways Township—S. W. Melton.

Mt. Tirzah Township—R. P. Moore.
Olive Hill Township—C. E. Winstead, Jr.

PITT COUNTY

Pitt County.

Farmville Township—B. J. Skinner (two years).
Belvoir Township—W. C. Cobb (four years).

POLK COUNTY

Polk County.

Green Creek Township—Albert Prince, Solan Hines (two years).
Saluda Township—G. W. Pearson (two years).
Tryon Township—R. E. Leonard (two years).

RANDOLPH COUNTY

Randolph County.

Asheboro Township—Ralph Bulla.
Brower Township—Herbert Cox.
Coleridge Township—H. P. Moffitt.
Columbia Township—Charlie Tate, E. B. Leonard, L. M. Sizemore.
Concord Township—C. C. Ridge, Herbert Kearns.
East Cedar Grove Township—Ralph Whatley.
West Cedar Grove Township—Charles Kearns.
Franklinville Township—R. B. York, E. O. York, G. P. Ferree, W. C. Craven, Ernest Routh.
Grant Township—C. A. Lewallen.
Level Cross Township—S. Reddick.
Liberty Township—R. C. Palmer.
New Hope Township—P. L. Walker, J. A. Hopkins.
New Market Township—Hal Farlow.
Pleasant Grove Township—John L. Kearns, E. S. Sewell.
Providence Township—W. J. Pugh.
Randleman Township—M. E. Brown, R. P. Bell, H. W. Prevost, A. N. Bulla.
Tabernacle Township—L. E. Hoover, Carl Nance, Wade Smith.
Trinity Township—Richard Brown, R. D. Auman, T. S. Bouldin, L. B. Frazier.
Union Township—S. A. Cox, O. H. Callicutt.

RICHMOND COUNTY

Richmond County.

Mark's Creek Township—W. B. Barrington, Henry E. Gibbons.
Rockingham Township—Carl McLean.
Wolf Pitt Township—R. S. Sessoms, Otis Colvin, M. J. Pate, Fairly Dawkins (four years).

Robeson County.

ROBESON COUNTY

Marietta Township—W. M. Oliver (four years).
Orrum Township—J. Belin Lawson.
Red Springs Township—F. C. Jones.
Rowland Township—E. P. Bond, Sr.
Saddletree Township—Grady S. Harrell.
St. Pauls Township—B. Johnson, E. M. Paul.
Lumberton Township—H. M. McAllister, John L. McLean.
Philadelphia Township—Clifton Adams.

Rockingham County.

ROCKINGHAM COUNTY

New Bethel Township—W. Garrett Sharpe.
Ruffin Township—Thomas F. Littlejohn.
Leakesville Township—G. A. Treadway.

Rowan County.

ROWAN COUNTY

Salisbury Township—W. E. Hennessee.

Rutherford County.

RUTHERFORD COUNTY

Duncans Creek Township—C. C. Brackett, Q. J. Devenney.
High Shoals Township—T. H. Ferree.
Morgan Township—B. C. Arrowood.

Stanly County.

STANLY COUNTY

Almond Township—T. F. Rowland, D. Walter Sides (two years).
Big Lick Township—Q. E. C. Coble, A. L. Huneycutt (four years).
Endy Township—L. H. Bost (four years).
Furr Township—Hubert D. Love, B. W. Turner (four years).
Harris Township—W. J. Fisher (four years).
Ridenhour Township—G. J. Misenheimer (four years).
Tyson Township—E. D. Thompson (four years).

Stokes County.

STOKES COUNTY

Meadows Township—O. M. Flynt.

Surry County.

SURRY COUNTY

Mount Airy Township—A. E. Creed.
Pilot Township—B. E. Whitaker.

Swain County.

SWAIN COUNTY

Charleston Township—C. F. Plott.

Forney's Creek Township—Edgar Fisher, S. J. Calhoun.
Nantahala Township—Oscar Jenkins.
(All for two years).

TRANSYLVANIA COUNTY — Transylvania County.

Hogback Township—P. L. Wilbanks, L. E. Cash.
Brevard Township—Fred Grogan.

TYRRELL COUNTY — Tyrrell County.

Alligator Township—D. M. Pledger.
Columbia Township—E. P. Cahoon, J. W. Hamilton.
Gum Neck Township—W. S. Sykes.
Kill Kenny Township—R. Bruce Cahoon.

UNION COUNTY — Union County.

Buford Township—T. C. Eubanks, W. A. Eubanks.
Jackson Township—R. D. Sims.
Lanes Creek Township—E. E. Huggins.
Monroe Township—C. McLane Brooks, M. L. Flow, R. F. Beasley, Jr., J. H. Myers, H. K. Helms, J. Vernon Griffin, R. C. Funderburk.
New Salem Township—P. J. C. Efird.
Sandy Ridge Township—Page Price.

WAKE COUNTY — Wake County.

Raleigh Township—Charles Hardesty.
Holly Springs Township—E. G. Brewer.

WARREN COUNTY — Warren County.

Judkins Township—Charles A. Nicholson.
Warrenton Township—B. O. Ayscue, W. C. Pagg, W. R. Baskerville, George R. Frazier.
(Each for a term of six (6) years).

WASHINGTON COUNTY — Washington County.

Lee's Mill Township—Robert W. Lewis, W. A. Swain, E. A. Everett, Thomas W. Norman.
Plymouth Township—Walter H. Paramore, E. L. McNair, J. T. McNair, John W. Darden.
Scuppernong Township—J. F. Snell, T. F. Davenport, J. A. Combs, Joe Hathaway.
Skinnerville Township—W. W. White, H. L. Davenport, M. F. Davenport, J. W. Alexander.

Watauga County.

WATAUGA COUNTY

Bald Mountain Township—R. F. Vannoy, Glenn Howell.

Beaver Dam Township—Clyde Perry, John W. Ward, Don Hagaman.

Blowing Rock Township—Roscoe J. Hartley, Bill Lentz, J. Allen Gragg.

Boone Township—J. C. Hodges.

Blue Ridge Township—M. O. Coffey.

Cove Creek Township—C. F. Thompson, Don J. Henson, C. B. Moody.

Elk Township—Ward Carroll, C. C. Triplett.

Meat Camp Township—H. C. Beach, C. G. Hodges, O. G. Winebarger.

Shawneehaw Township—G. W. Caudill, Earnie Triplett.

Stoney Fork Township—E. B. Harding, Hayes Wellborn.

Watauga Township—John Fox.

Wilkes County.

WILKES COUNTY

North Wilkesboro Township—J. C. Wallace.

Trap Hill Township—Harden Brown.

Yadkin County.

YADKIN COUNTY

Deep Creek Township—F. R. Bates, E. M. Renegar.

Booneville Township—Nath Mackay, Paul Speer.

Knobs Township—J. B. Holcomb, Fletcher McBride.

East Bend Township—Mrs. Edna Martin.

Liberty Township—Joe Lofflin, Joe R. Williams, N. S. Steelman, J. C. Styers.

Yancey County.

YANCEY COUNTY

Price's Creek Township—Harmon Edwards, John R. Metcalf.

South Toe Township—J. W. Letterman.

Pensacola Township—P. B. Wilson, A. G. Wilson.

Jacks Creek Township—Carl Young, A. P. Honeycutt.

Burnsville Township—L. E. Briggs, S. H. Banks, J. F. Wilson.

Cane River Township—E. J. Angel, W. S. Edwards.

Egypt Township—W. M. Pate, I. R. Wilson, S. C. Edwards.

Ramseytown Township—R. E. Hollaway, J. W. Higgins, J. E. McIntosh.

Green Mountain Township—Frank W. Howell.

Brush Creek Township—L. G. Deyton, Claude Hughes, R. C. Deyton.

Crabtree Township—R. N. Silver, W. A. Hall.

SEC. 2. That this Act shall be in force and effect from and after the first day of April, one thousand nine hundred and thirty-nine. Effective date.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 926 CHAPTER 363

AN ACT TO PROMOTE RIFLE MARKSMANSHIP AMONG THE UNORGANIZED MILITIA AND TO DEFRAY THE EXPENSES THEREOF.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter four hundred and forty-nine Public Laws of one thousand nine hundred and thirty-seven shall be continued and operated for the biennium one thousand nine hundred thirty-nine-forty-one. Ch. 449, Public Laws, 1937, Act to promote rifle marksmanship among unorganized militia, continued for biennium.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 931 CHAPTER 364

AN ACT TO PROVIDE FOR THE CREATION OF A STATE VOLUNTEER FIRE DEPARTMENT; TO PRESCRIBE THE POWERS AND DUTIES OF SUCH DEPARTMENT; AND TO PROVIDE PROTECTION FOR MEMBERS THEREOF.

The General Assembly of North Carolina do enact:

SECTION 1. *Purpose of the Act.* The purpose of this Act shall be the creation of a State Volunteer Fire Department to provide protection for property lying outside the boundaries of municipalities, and to render assistance anywhere within the State of North Carolina, in municipalities or counties, in emergencies caused by fire, floods, tornadoes, or otherwise, in the manner and subject to the conditions provided in this Act. Creation of State Volunteer Fire Department.

SEC. 2. *Personnel.* The personnel of the North Carolina State Volunteer Fire Department shall consist of all active members of the organized fire departments, who are members Personnel.

of the North Carolina State Firemen's Association, of municipalities whereof the governing bodies shall subscribe to and endorse this Act.

Organization.

SEC. 3. *Organization.* The North Carolina State Fire Marshal shall be Chief of the State Volunteer Fire Department; regular municipal fire chiefs shall be assistant chiefs; assistant chiefs shall be deputy chiefs; battalion chiefs, captains, lieutenants and privates shall hold the same positions that they occupy in their municipal companies. When engaged in rendering assistance at the scene of any emergency, the ranking officer of the first department arriving at the scene of the emergency shall have complete charge of all operations until the arrival of a superior officer. All subordinate officers and men shall act under the direction of such ranking officer. Whenever present at the scene of an emergency, the chief shall have full and complete control and authority over operations of all members of the department.

Acceptance by municipalities upon resolution of governing body.

SEC. 4. *Acceptance by Municipalities.* Any municipality having an organized fire department and desiring to participate in the establishment of the State Volunteer Fire Department, may do so by a resolution of the governing body accepting and endorsing the provisions of this Act: *Provided*, that acceptance shall not be compulsory.

Withdrawal by municipalities from membership.

SEC. 5. *Withdrawal.* Any municipality which has accepted the provisions of this Act may withdraw its fire departments from membership in the State Volunteer Fire Department by resolution of the governing body thereof. Notice of such withdrawal shall be given to the State Fire Marshal and withdrawal shall not become effective until sixty (60) days after his receipt thereof.

Notice of withdrawal.

Authority of municipalities in dispatching firemen and apparatus beyond municipal limits.

SEC. 6. *Dispatching Firemen and Apparatus from Municipalities.* Municipalities endorsing this Act shall retain full and complete control and authority in sending or permitting firemen and apparatus to go beyond the limits of the municipality. The governing bodies of such municipalities shall designate and authorize a person, and at least two alternates, who shall have authority to grant or deny permission to firemen and apparatus to leave the municipality in all cases where request is made for assistance beyond its corporate limits, and the municipality shall, through the office of its municipal fire chief, furnish to the office of the State Insurance Commissioner, and to the Secretary of the North Carolina State Firemen's Association, a list of the persons so authorized by the municipality. The Secretary of the State Firemen's Association shall furnish to all municipalities and counties accepting this Act a list of all such persons so designated in all municipalities within the State.

SEC. 7. The State Volunteer Fire Department shall not have authority to render assistance in any emergency occurring within a county which has not accepted the terms and conditions of this Act by resolution of the Board of County Commissioners: *Provided,* that nothing in this Act shall be construed to prevent any municipality from voluntarily permitting its fire department to render assistance in any emergency, notwithstanding that it may arise in a county which has failed to accept this Act.

No authority in State Volunteer Fire Dept. to render assistance to non-accepting counties.

Municipalities not prevented from rendering voluntary assistance.

SEC. 8. *Acceptance by Counties.* Any county desiring to accept the benefits of this Act may do so by resolution of the Board of County Commissioners. The board may make the necessary appropriation therefor and levy annually taxes for payment of the same as a special purpose, in addition to any tax allowed by any special statute for the purposes enumerated in Section one thousand two hundred and ninety-seven of the Consolidated Statutes and in addition to the rate allowed by the Constitution. All such counties may thereupon make agreements and enter into contracts with respect to payment for services rendered by the State Volunteer Fire Department within its boundaries in the following manner:

Acceptance of membership by counties.

Appropriation and tax levy authorized.

Contracts and agreements as to payment for services.

The county may contract with any municipality which has accepted the terms of this Act, whether within or without said county, to pay to such municipality an annual fee as a consideration for the municipality providing equipment and carrying compensation insurance which will enable it to respond to calls from within the county so contracting, and to pay an additional sum per truck for each mile traveled from the station house to the scene of the emergency, and to pay an additional sum per truck per hour or fraction thereof for the use of its water or chemical pumping equipment. Said sums shall be paid to the city within thirty (30) days after such services have been performed: *Provided,* that nothing in this section shall be construed to prevent the county and municipality from adopting a different schedule of fees in cases where those provided above shall be considered excessive or inadquate: *Provided,* that if the emergency shall occur within the limits of another city or town, such city or town and not the county wherein it lies shall be responsible for the payments and shall assume all liabilities as provided in this section.

Contracts by counties with municipalities.

Annual fee for services.

Payment for services within 30 days.

SEC. 9. *Municipalities not to be left unprotected.* At no time shall the entire personnel or equipment of any municipal fire department be absent from the municipality in response to a call to another municipality, or other place lying at a distance exceeding two miles from the corporate limits, but there shall remain within the municipal limits such personnel and equipment as in the judgment of the local fire chief might

Municipalities not to be left unprotected.

provide sufficient protection during the absence of the remainder.

Rights and privileges of firemen.

SEC. 10. *Rights and Privileges of Firemen, Liability of Municipality.* When responding to a call and while working at a fire or other emergency outside the limits of the municipality by which they are regularly employed or in volunteer fire service, all members of the State Volunteer Fire Department shall have the same authority, rights, privileges and immunities which are afforded them while responding to calls within their home municipality. In permitting its fire department or equipment to attend an emergency or answer a call beyond the municipal limits, whether under the terms of this Act or otherwise, a municipality shall be deemed in exercise of a governmental function, and shall hold the privileges and immunities attendant upon the exercise of such functions within its corporate limits.

Liability of municipality.

Workmen's Compensation Act applicable to members.

SEC. 11. *Relief in Case of Injury or Death.* In case of injury or death of any member of the State Volunteer Fire Department arising out of and in the course of the performance of his duties while such member is assisting at any emergency arising beyond the limits of the municipality with which he is connected, or while going to or returning from the scene of such emergency, such fireman shall be entitled to compensation under the terms of the North Carolina Workmen's Compensation Act, and the municipality with which he is connected shall be liable for the compensation provided under that Act.

Sums from contingent fund of State made available for administration of Act.

SEC. 12. In order to assist in carrying out the purposes of this Act the Governor may, from time to time, make provisions for assistance to the North Carolina State Firemen's Association in a sum not to exceed two thousand and five hundred dollars ($2,500.00), in any one year, out of the contingent fund appropriated in the General Appropriation Act.

Disbursement of sums.

One half of the amount so provided shall, in each instance, go to the State Firemen's Relief Fund, and one half to the expenses of the said association incurred in carrying out the provisions of this Act.

Conflicting laws repealed.

SEC. 13. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 14. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 935 **CHAPTER 365**

AN ACT TO AMEND SECTION SIXTEEN, CHAPTER ONE HUNDRED AND THIRTY-FOUR OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-THREE, AND TO REPEAL CHAPTER ONE HUNDRED AND SIXTY-FIVE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN; AND TO REPEAL CONSOLIDATED STATUTES THREE THOUSAND FIVE HUNDRED AND THIRTEEN, RELATING TO THE FUNCTIONS OF THE UTILITIES COMMISSIONER WITH REFERENCE TO RAIL AND MOTOR CARRIER RATES, FARES, CHARGES, RULES, REGULATIONS AND PRACTICES.

The General Assembly of North Carolina do enact:

Sec. 16, Ch. 134, Public Laws, 1933, relating to Utilities Commissioner, amended.

SECTION 1. That Section sixteen, Chapter one hundred and thirty-four of the Public Laws of one thousand nine hundred and thirty-three, be and the same is hereby amended by striking out that part thereof beginning with the words "and no corporation" in line thirteen of said Section sixteen, and inserting in lieu thereof the following: "and no corporation, association, partnership, or individual, other than carriers of passengers and property by rail, express, highway and/or water, doing business in the State of North Carolina as a public-service corporation, or any other corporation herein designated, shall be allowed to increase its rate and charge for service, or change its classification in any manner whatsoever except upon petition duly filed with the Utilities Commissioner and inquiry held thereon and final determination of the reasonableness and the necessity of any such increase or change in classification or service: *Provided, however,* that nothing herein shall be construed to prevent any public-service corporation under the jurisdiction of the commissioner from reducing its rates, either directly or by change in classification."

Petitions for increase in rates or change in classification by public service corporations.

Ch. 165, Public Laws, 1937, authorizing approval of rail rate increases without hearing, repealed.

SEC. 2. That Chapter one hundred and sixty-five of the Public Laws of one thousand nine hundred and thirty-seven, be and the same is hereby repealed.

Hearing before Utilities Commissioner upon request for change of rates, etc.

SEC. 3. Whenever there shall be filed with the Utilities Commissioner any schedule stating an increase in any new individual or joint rate, fare, charge, or classification for the transportation of passengers or property by a public carrier or carriers by railroad, or express, or highway, or water, or any rule, regulation, or practice affecting such rate, fare, or charge, or the value of the service thereunder, the commissioner is hereby authorized and empowered upon complaint of any interested party or upon his own initiative at once and, if he so orders, without answer or formal pleading by the interested

carrier or carriers, but upon reasonable notice, to enter upon a hearing concerning the lawfulness of such rate, fare, or charge, or such rule, regulation, or practice, and pending such hearing and the decision thereon the commissioner, by filing with such schedule and delivering to the carrier or carriers affected thereby a statement in writing and its reasons for such suspension, may suspend the operation of such schedule and defer the use of such rate, fare, or charge, or such rule, regulation, or practice, for a period of ninety days, and if the proceeding has not been concluded and a final order made within such period, the commissioner may, from time to time, extend the period of suspension by order, but not for a longer period in the aggregate than one hundred and eighty days beyond the time when it would otherwise go into effect; and after hearing, whether completed before or after the rate, fare, charge, classification, rule, regulation, or practice goes into effect, the commissioner may make such order with reference thereto as would be proper in a proceeding instituted after it had become effective. If the proceeding has not been concluded and an order made within the period of suspension, the proposed change of rate, fare, or charge, or classification, rule, regulation, or practice, may go into effect at the end of such period. At any hearing, after the date of the approval of this Act, involving a rate, fare, charge, or classification, increased or sought to be increased, or involving a rule, regulation, or practice, resulting in an increase, the burden of proof shall be upon the carrier to show that the increased rate, fare, charge, or classification, or rule, regulation, or practice, or the proposed increased rate, fare, charge, or classification, or the proposed rule, regulation, or practice, is just and reasonable.

Temporary suspension of rates, etc. pending hearing and decision.

Extension of period of suspension.

Burden of proof on carrier to show proposed increase or change to be just and reasonable.

Notice required for increase in rates, etc.

SEC. 4. No increase shall be made in any rate, fare, charge, or classification, nor shall any change be made in any rule, regulation, or practice, the result of which will be an increase, which has been published and filed by any of the transportation companies named in the preceding section, except upon not less than thirty days' notice to the commissioner and the public: *Provided*, that the commissioner may, in his discretion, and for good cause shown, authorize the publication and filing of increased rates, fares, charges, or classification, or rules, regulations, or practices, upon less than thirty days' notice.

C. S. 3513, repealed.

SEC. 5. That Consolidated Statute three thousand five hundred and thirteen, captioned Freight Rates to Be Posted, be and the same is hereby repealed.

Conflicting laws repealed.

SEC. 6. That all laws and clauses of laws that are in conflict herewith are hereby repealed.

SEC. 7. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 939 **CHAPTER 366**

AN ACT TO AMEND CHAPTER ONE HUNDRED AND FORTY-NINE, PUBLIC LAWS NINETEEN HUNDRED AND THIRTY-ONE KNOWN AS CONSOLIDATED STATUTE SEVEN THOUSAND AND SIXTY-FOUR RELATING TO ORGANIZATION OF COUNTY BOARDS OF HEALTH.

The General Assembly of North Carolina do enact:

C. S. 7064, amended.

SECTION 1. That Consolidated Statute seven thousand sixty-four be, and the same is hereby amended as it relates to Caldwell County, by striking out the period at the end of the last sentence in Section one and inserting in lieu thereof a comma and adding the following: "and all members while on duty shall receive five dollars per diem to be paid by the county out of special health funds set aside for this purpose: *Provided*, this per diem shall not be allowed for more than six meetings per year per member."

Compensation of members of County Board of Health, Caldwell County.

Application of Act.

SEC. 2. This Act shall apply to Caldwell County only.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 951 **CHAPTER 367**

AN ACT TO AMEND CHAPTER FOUR HUNDRED SEVENTY-TWO OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE RELATING TO NOTICE TO QUIT IN CERTAIN TENANCIES.

The General Assembly of North Carolina do enact:

Ch. 472, Public Laws, 1935, providing notice by tenant to quit, and delivery of keys, amended to apply to Hertford County.

SECTION 1. That Chapter four hundred seventy-two of the Public Laws of one thousand nine hundred thirty-five, an amendatory Act of Chapter one hundred ninety-six of the Public Laws of one thousand nine hundred twenty-five, which amends Section two thousand three hundred fifty-four of the

Consolidated Statutes, Volume one, one thousand nine hundred nineteen, be amended by striking out the period following the word "Perquimans" in Section one, and inserting a comma in lieu thereof and adding the word "Hertford".

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 975 CHAPTER 368

AN ACT TO VALIDATE CERTAIN ACTS OF CONSERVATORS AND LIQUIDATING AGENTS AS AGENTS OF THE COMMISSIONER OF BANKS IN EXECUTING CERTAIN TRUSTEE'S DEEDS WHERE THE TRUSTEE AND CERTAIN DEEDS OF TRUST WERE, AT THE TIME OF THE EXECUTION OF THE SAME, IN THE PROCESS OF LIQUIDATION BY THE COMMISSIONER OF BANKS.

Preamble: Supervision of Commissioner of Banks over banks of State.

WHEREAS, the Commissioner of Banks, created by Chapter two hundred forty-three of the Public Laws of one thousand nine hundred thirty-one, was given general supervision over the banks of this State; and

Succession by Commissioner of Banks to property and fiduciary powers of liquidated banks.

WHEREAS, the Commissioner of Banks, under authority of Chapter three hundred and eighty-five of the Public Laws of one thousand nine hundred thirty-one, succeeded to all the property of banks in liquidation, including fiduciary powers under mortgages and deeds of trust; and

Foreclosure by Commissioner of deeds of trust and mortgages in which liquidated banks were named as trustees.

WHEREAS, the Commissioner of Banks, in his own name and in the name of a number of conservators or liquidating agents of banks in the process of liquidation under his supervision, has foreclosed a large number of deeds of trust in which such banks were the named trustee, and has executed under the powers contained therein a large number of trustee's deeds under authority thereof: *Now, therefore,*

The General Assembly of North Carolina do enact:

Foreclosures and execution of deeds by Commissioner of Banks, validated.

SECTION 1. That all the deeds and acts of the Commissioner of Banks and/or conservators or liquidating agents of such banks in the process of liquidation, as in the preamble to this Act described, be, and the same are hereby in all respects ratified, validated and confirmed.

SEC. 1½. This Act shall not effect pending litigation. Pending litigation unaffected.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 988 **CHAPTER 369**

AN ACT TO AMEND SECTION SIXTY-FOUR OF CHAPTER FOUR HUNDRED SEVEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN SO AS TO PROVIDE FOR A CREDIT ON NEW LICENSE WHERE OLD MOTOR VEHICLE HAS BEEN JUNKED.

The General Assembly of North Carolina do enact:

SECTION 1. That Section sixty-four of Chapter four hundred seven of the Public Laws of one thousand nine hundred thirty-seven be, and the same hereby is, amended by adding after the comma and before the word "the" in line three of said sction the following: "or has been junked and completely dismantled so that the same can no longer be operated as a motor vehicle". Ch. 407, Public Laws, 1937, Uniform Motor Vehicle Act, amended to provide credit on new license where old vehicle has been junked.

SEC. 2. That all laws and clauses of laws in conflict with this Act, to the extent of such conflict, are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1014 **CHAPTER 370**

AN ACT TO AMEND THE REVENUE ACT FOR INCIDENTAL CORRECTION.

The General Assembly of North Carolina do enact:

SECTION 1. That House Bill Number thirteen entitled An Act to Raise Revenue ratified March twenty-fourth, one thousand nine hundred and thirty-nine be amended as follows: H. B. 13, Ch. 158, Public Laws, 1939, Revenue Act, amended to make certain corrections in Sections 903, 908, 418 and 517.

Amend Section nine hundred and three by striking out of line four the word "eight" and inserting in lieu thereof the word "nine".

Amend Section nine hundred and three by striking out of line twenty the word "eight" and inserting in lieu thereof the word "nine".

Amend Section nine hundred and eight by striking out of line four the word "eight" and inserting in lieu thereof the word "nine".

Amend Section four hundred and eighteen by striking out of line five the words "eight hundred twelve" and inserting in lieu thereof the words "nine hundred thirteen".

Amend Section five hundred and seventeen by striking out of line eight of last paragraph of the section the word "unlawful" and inserting in lieu thereof the word "lawful".

SEC. 2. That this Act shall be in full force from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1016 CHAPTER 371

AN ACT TO AMEND CHAPTER TWO HUNDRED SEVENTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN, REGARDING THE ORGANIZATION OF DRAINAGE DISTRICTS IN HERTFORD COUNTY.

The General Assembly of North Carolina do enact:

Ch. 278, Public Laws, 1937, amended to authorize advancements by Hertford County of certain costs in connection with establishment of drainage districts, etc.

SECTION 1. That Chapter two hundred seventy-eight of the Public Laws of one thousand nine hundred thirty-seven, as amended by an Act ratified on the first day of February, one thousand nine hundred thirty-nine, entitled "An Act to amend Chapter two hundred seventy-eight of the Public Laws of one thousand nine hundred thirty-seven relative to drainage districts in Edgecombe County", be, and the same hereby is, amended by adding a new section to Chapter two hundred seventy-eight of the Public Laws of one thousand nine hundred thirty-seven, as amended, to be designated as Section four, as follows:

"SEC. 4. That this Act shall be applicable to Hertford County." That Section four of said Act to be renumbered Section five.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1023 **CHAPTER 372**

AN ACT TO AMEND SECTION TWO, CHAPTER FIVE HUNDRED AND SIXTY, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-THREE RELATING TO SALE OF REAL ESTATE FOR TAXES.

The General Assembly of North Carolina do enact:

Ch. 560, Public Laws, 1933, amended.

SECTION 1. That Section two, Chapter five hundred and sixty, Public Laws of one thousand nine hundred and thirty-three, be and the same is hereby stricken out, and the following be and the same is hereby, substituted therefor and known and designated as Section two of said Act.

Postponement of proceedings for collection of 1938, 1939 taxes, Wilson County.

"SEC. 2. That so far as the provisions of such laws in force on January first, one thousand nine hundred and thirty-five relate to taxes levied in the years one thousand nine hundred and thirty-eight and one thousand nine hundred and thirty-nine, all actions and proceedings required by such provisions to be taken in the month of May, June and July in the years one thousand nine hundred and thirty-nine and one thousand nine hundred and forty shall be taken in the months of September, October and November, respectively, in the years one thousand nine hundred and thirty-nine and one thousand nine hundred and forty."

Time within which tax sales may be made.

SEC. 2. That in Wilson County the sale of land for taxes or the sale of tax liens may be made in the month of May, or in any of the six following months.

SEC. 3. This Act shall apply only to Wilson County, and shall amend or repeal Acts herein referred to only in so far as they apply to Wilson County.

Conflicting laws repealed.

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1050 CHAPTER 373

AN ACT TO AMEND CHAPTER ONE HUNDRED THIRTY-TWO, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN RELATING TO THE DISCHARGE AND REVOCATION OF PERSONS PLACED ON PROBATION BY THE CRIMINAL COURTS OF NORTH CAROLINA.

The General Assembly of North Carolina do enact:

Ch. 132, Public Laws, 1937, amended.

Termination or suspension of probation periods, etc.

Reports of arrests by probation officer in Superior Court cases.

Revocation of probation, etc. in or out of term.

SECTION 1. That Section four, Chapter one hundred thirty-two, Public Laws of one thousand nine hundred and thirty-seven, be, and the same is hereby, amended by inserting a comma after the word "extended" and before the word "within" in line three (3) and inserting the following words: "terminated or suspended by the court at any time," and by inserting in line twenty (20) of said section after the word "court" and before the word "and" the following words: "or in Superior Court cases to the judge holding the courts of the district, or the resident judge, or any judge commissioned at the time to hold court in said district", and by inserting in line twenty-three (23) of said section after the word "it" and before the word "and" the following words: "in or out of term".

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1061 CHAPTER 374

AN ACT TO CORRECT ERRORS IN HOUSE BILL NUMBER TWO HUNDRED SIX, KNOWN AS THE ASHE MEMORIAL BILL.

The General Assembly of North Carolina do enact:

Correction of errors in H. B. 206, Ch. 83, Public Laws, 1939, as to members of Samuel Ashe Memorial Committee.

SECTION 1. That the name of Dr. Julian S. Little be stricken out and the name of Dr. Julian S. Miller be substituted therefor, and that the name of Mistress Mary Winder Osborne be added to the list of officials in said bill.

SEC. 2. That this Act shall be in full force from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1098 **CHAPTER 375**

AN ACT TO AMEND CHAPTER SEVENTY-FIVE, SECTION ONE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-THREE, THE SAME BEING AN ACT TO PREVENT THE MARRIAGE OF FEMALES UNDER SIXTEEN YEARS OF AGE EXCEPT BY CONSENT OF PARENTS OR PERSONS STANDING IN RELATION OF A PARENT AND UPON SPECIAL LICENSE.

The General Assembly of North Carolina do enact:

Ch. 75, Public Laws, 1923, as to marriage licenses for girls under 16, amended.

Actions for annulment on grounds of fraud, etc.

SECTION 1. That Section one of Chapter seventy-five, Public Laws of one thousand nine hundred and twenty-three be amended as follows by adding at the end of Section one the following: *Provided*, that when the special license is procured by fraud and misrepresentation, that the parent or person standing in loco parentis of the female shall be a proper party plaintiff in an action to annul said marriage.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1112 **CHAPTER 376**

AN ACT TO AMEND CHAPTER NINETY-FIVE, SUBCHAPTER THREE, ARTICLE FIVE, CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED AND NINETEEN, IT BEING SECTION FIVE THOUSAND THREE HUNDRED AND THIRTY-SIX (A) OF SAID CONSOLIDATED STATUTES, SO AS TO MAKE THE PROVISIONS OF CHAPTER TWO HUNDRED AND FIVE, PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND TWENTY-FIVE APPLY TO NASH COUNTY.

The General Assembly of North Carolina do enact:

C. S. 5336 (a), amended.

Advancements by Nash County of certain costs in connection with establishment of drainage districts, authorized.

SECTION 1. That on presentation of petition as authorized by Section five thousand three hundred and fourteen of Consolidated Statutes of one thousand nine hundred and nineteen, and after filing bond as required by Section five thousand three hundred and fifteen, said statutes, and after the clerk has issued summons as directed by said latter section, the Board of County Commissioners of Nash County is authorized and empowered, in the exercise of its discretion, in case the

proposed drainage district is situate wholly or mostly in said county, to advance to the use of such proposed district to be paid out, on order of said court, and of the general fund of said county, a sum of money sufficient to pay court costs, and the costs incurred by the board of viewers appointed by the court under Section five thousand three hundred and seventeen up to the appointment of drainage commission as authorized by Section five thousand three hundred and thirty-seven, said statutes, such advancement shall be repaid to said general fund, after finances have been provided to construct the proposed canal or levee.

Repayment of costs advanced.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1118 CHAPTER 377

AN ACT TO AMEND SECTION ONE THOUSAND FOUR HUNDRED FORTY-THREE OF THE CONSOLIDATED STATUTES, RELATING TO THE COURTS OF CABARRUS COUNTY.

The General Assembly of North Carolina do enact:

C. S. 1443, amended.

SECTION 1. That Section one thousand four hundred forty-three of the Consolidated Statutes, and Acts amendatory thereto, be amended by striking out the paragraph beginning with the word "Cabarrus" under the heading "Fifteenth District", and inserting in lieu thereof the following:

Terms of Superior Court, Cabarrus County.

"Cabarrus - Eighth Monday before the first Monday in March, to continue for two weeks, for the trial of criminal and civil cases; first Monday before the first Monday in March, to continue for two weeks, for civil cases only; seventh Monday after the first Monday in March, to continue for two weeks, for criminal and civil cases; fourteenth Monday after the first Monday in March, to continue for two weeks, for civil cases only; second Monday before the first Monday in September, to continue for one week, for criminal cases only; first Monday before the first Monday in September, to continue for one week, for civil cases only; sixth Monday after the first Monday in September, to continue for two weeks, for criminal and civil cases; tenth Monday after the first Monday in September, to continue for one week, for civil cases only; thirteenth Monday after the first Monday in September, to continue for one week, for civil cases only.

Assignment of judge.

"The Governor shall assign an emergency or any other judge to hold any of the terms of the Superior Court of Cabarrus County

when the judge holding courts in said district is unable to hold said terms."

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1120 CHAPTER 378

AN ACT REPEALING CHAPTER ONE HUNDRED AND SIXTY-THREE OF THE PUBLIC LAWS OF NORTH CAROLINA OF NINETEEN HUNDRED AND THIRTY-SEVEN RELATING TO TERMS OF SUPERIOR COURT FOR WAKE COUNTY AND AMENDING THAT PORTION OF SECTION ONE THOUSAND FOUR HUNDRED AND FORTY-THREE OF THE CONSOLIDATED STATUTES OF NORTH CAROLINA RELATING TO THE TERMS OF SAID COURT.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter one hundred and sixty-three of the Public Laws of North Carolina of nineteen hundred and thirty-seven be, and the same is hereby, repealed. Ch. 163, Public Laws, 1937, relating to terms Superior Court, Wake County, repealed.

SEC. 2. That Section one thousand four hundred and forty-three of the Consolidated Statutes of North Carolina be amended by striking out all of that portion of said section between the word "Wake" and the word "Franklin" and inserting in lieu thereof the following: C. S. 1443, amended.

Criminal Courts: Eighth Monday before the first Monday in March; fourth Monday before the first Monday in March; first Monday in March to continue for two weeks; fifth Monday after the first Monday in March; ninth Monday after the first Monday in March; thirteenth Monday after the first Monday in March to continue for two weeks; eighteenth Monday after the first Monday in March; first Monday in September to continue for two weeks; fifth Monday after the first Monday in September; ninth Monday after the first Monday in September; thirteenth Monday after the first Monday in September to continue for two weeks. These terms shall be for criminal cases only, and there is scheduled a two weeks term of criminal court each for March, June, September, and December, no court for the month of August, criminal or civil, and one week of criminal court for each of the other months. Criminal terms of Superior Court, Wake County.

Civil terms of Superior Court, Wake County.

Civil Courts: Seventh Monday before the first Monday in March to continue for three weeks; third Monday before the first Monday in March to continue for three weeks; second Monday after the first Monday in March to continue for two weeks; sixth Monday after the first Monday in March to continue for three weeks; tenth Monday after the first Monday in March to continue for three weeks; fifteenth Monday after the first Monday in March to continue for two weeks; second Monday after the first Monday in September to continue for two weeks; sixth Monday after the first Monday in September to continue for three weeks; tenth Monday after the first Monday in September to continue for three weeks; fifteenth Monday after the first Monday in September to continue for one week. These terms shall be for civil cases only and there shall be no term for civil cases in July or in August.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with this Act to the extent of such conflict are hereby repealed.

Effective date.

SEC. 4. That this Act shall take effect and be in force on and after the first day of July, one thousand nine hundrd and thirty-nine.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1128 CHAPTER 379

AN ACT TO REENACT CHAPTER FIVE HUNDRED AND SIXTY-THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-THREE SESSION OF THE GENERAL ASSEMBLY AS AMENDED BY CHAPTER THREE HUNDRED AND EIGHTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN REGARDING "AGRICULTURAL AND BREEDING ASSOCIATION" FOR NEW HANOVER COUNTY.

The General Assembly of North Carolina do enact:

Ch. 563, Public Laws, 1933, creating Agricultural and Breeders Association, New Hanover County, amended.

Date of election.

SECTION. 1. That Chapter five hundred and sixty-three of the Public Laws of one thousand nine hundred and thirty-three session of the General Assembly as amended by Chapter three hundred and eighty-eight of the Public Laws of one thousand nine hundred and thirty-seven be and the same is reenacted in so far as the said Act applies to the County of New Hanover, and amend the said chapter by striking out in line six, Section five the numerals "1939" and substitute in lieu thereof the numerals "1943".

Conflicting laws repealed.

SEC. 2. That all laws or clauses of laws in conflict or repugnant to the provisions of this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1132 CHAPTER 380

AN ACT TO PLACE THE NAMES OF MRS. IDA IPOCK AND MRS. MACIE STOCKS, WIDOWS OF CONFEDERATE SOLDIERS, ON THE PENSION LIST.

The General Assembly of North Carolina do enact:

Mrs. Ida Ipock and Mrs. Macie Stocks placed on Confederate pension roll.

SECTION 1. That the names of Mrs. Ida Ipock, widow of Samuel W. Ipock and Mrs. Macie Stocks, widow of Wm. Lawrence Stocks, be, and they hereby are, placed on the pension roll, subject to the approval of the State Board of Pensions: *Provided*, the pensions hereby allowed and provided for shall be payable only after investigation and report by the local county pension boards to the effect that each of said applicants is the wife of an ex-Confederate veteran and is entitled to a pension under the general pension laws of the State.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1140 CHAPTER 381

AN ACT TO AMEND CHAPTER THREE HUNDRED THIRTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE SO AS TO REQUIRE THE LICENSING OF PLUMBING AND HEATING CONTRACTORS IN DURHAM COUNTY. (APPLICABLE ALSO TO WAKE COUNTY)

The General Assembly of North Carolina do enact:

Ch. 338, Public Laws, 1935, regulating plumbing and heating contractors, made applicable to Durham and Wake Counties.

SECTION 1. Amend Section one of Chapter three hundred thirty-eight of the Public Laws of one thousand nine hundred and thirty-five by adding at the end thereof the following:

"*Provided*, that all requirements and provisions of this Act shall apply to Durham County and Wake County."

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with or repugnant to the provisions of this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1168 CHAPTER 382

AN ACT TO AMEND SECTION ONE, SUBSECTION FIVE, CHAPTER SEVEN HUNDRED SIX, OF PUBLIC LAWS OF NORTH CAROLINA, SESSION ONE THOUSAND NINE HUNDRED ONE.

The General Assembly of North Carolina do enact:

Ch. 706, Public Laws, 1901, amended as to premiums on bonds of trustees, guardians, etc.

SECTION 1. That Section one, Subsection five, Chapter seven hundred six of Public Laws of North Carolina, session one thousand nine hundred one, be and the same is hereby amended by striking out the words "not exceeding one half of one per cent" which appear in line eighty-three of Section one after the word "suretyship" and before the word "per", and inserting in lieu thereof the words "to the extent of bond premiums actually paid".

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1169 CHAPTER 383

AN ACT TO AMEND SECTION SIXTY-FIVE-A, OF THE CONSOLIDATED STATUTES, RELATING TO THE PAYMENT OF MONEY INTO THE OFFICE OF THE CLERK OF THE SUPERIOR COURT, IN EXCESS OF THREE HUNDRED DOLLARS ($300.00), DUE AND OWING INTESTATES, MAKING SAID SECTION APPLY TO FORSYTH COUNTY.

The General Assembly of North Carolina do enact:

C. S. 65 (a), amended to provide for payment to C. S. C. of small sums due intestates, Forsyth County.

SECTION 1. That Section sixty-five - (a) of the North Carolina Code be and the same is hereby amended by adding at the end of the said section after the name "Martin" and before the period the name of "Forsyth".

SEC. 2. That this Act shall be in full force and effect, from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1171 CHAPTER 384

AN ACT TO REPEAL CHAPTER THREE HUNDRED AND THIRTY-SIX OF PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED AND THIRTY-SEVEN RELATING TO FORSYTH COUNTY ONLY.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter three hundred and thirty-six of the Public Laws of one thousand nine hundred and thirty-seven entitled "An Act to Amend Chapter seventy-one of the Public Laws of one thousand nine hundred and twenty-nine of North Carolina, relating to the payment to the Clerk of the Superior Court of moneys due estates of intestates, and to provide for the administration of the same," applying to Forsyth County only, is hereby repealed.

Ch. 336, Public Laws, 1937, providing for payment of sums due intestates to public administrator, Forsyth County, repealed.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1173 CHAPTER 385

AN ACT TO ESTABLISH A JUVENILE COURT FOR FORSYTH COUNTY, NORTH CAROLINA, AND AMEND CHAPTER NINETY-SEVEN, SECTION TWO, OF THE PUBLIC LAWS OF NORTH CAROLINA, SESSION ONE THOUSAND NINE HUNDRED NINETEEN, AND ALSO AMEND CHAPTER EIGHTY-FIVE, OF THE PUBLIC LAWS OF NORTH CAROLINA, EXTRA SESSION OF ONE THOUSAND NINE HUNDRED TWENTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Section two, Chapter ninety-seven of the Public Laws of North Carolina, session one thousand nine hundred nineteen, and Chapter eighty-five of the Public Laws of North Carolina, extra session of one thousand nine hundred twenty be amended by striking out all of said sections in so far as they apply to Forsyth County.

Ch. 97, Public Laws, 1919, and Ch. 85, Public Laws, Extra Session, 1920, amended.

SEC. 2. That a Juvenile Court be and is hereby created for Forsyth County, North Carolina.

Juvenile court created, Forsyth County.

Qualifications of Judge and Assistant Judge.

Terms of office.

Disqualification.

SEC. 3. That the Judge and the Assistant Judge of the Juvenile Court of Forsyth County shall each be licensed attorneys and qualified voters of said county. They shall hold their respective offices for a term of two years after appointment, as herein provided, but upon trial and conviction of a felony by a court of competent jurisdiction said judge or assistant judge shall be disqualified to further hold the office of judge or assistant judge.

Biennial appointment of Judge and Assistant Judge by County Commissioners.

SEC. 4. The County Commissioners of Forsyth County shall elect a judge and an assistant judge of the juvenile court who shall assume their respective offices at the end of the present term of office of the present juvenile court judge. Said judges shall hold their offices until their successors have been elected and qualified, or until they become disqualified as set out in Section three hereof. Every two years after its first election of said judges the Board of County Commissioners shall elect successor judges, but in the discretion of the board said judge or assistant judge may be elected to succeed himself.

Duties of Assistant Judge.

Compensation.

(A) In the event of absence or disability of the judge of the juvenile court the assistant judge shall act in his stead. The assistant judge shall receive for each day that he serves the same compensation on a per diem basis as the regular judge receives. Said compensation to be paid by the regular judge of the juvenile court.

Compensation of regular Judge.

(B) The salary of the judge shall be fixed, from time to time, by said Board of County Commissioners.

Oath of office of regular and Assistant Judges.

(C) Before entering upon the duties of his office, the judge and the assistant judge shall take and subscribe to a written oath of office, which shall be filed with the Clerk of Superior Court of the county.

Power, authority and jurisdiction of Juvenile Court.

SEC. 5. The said Juvenile Court of Forsyth County shall have, and is hereby vested with all the powers, authority, and jurisdiction heretofore vested by law for the juvenile courts of North Carolina, and said power, authority, and jurisdiction being as fully vested in the Juvenile Court of Forsyth County as if particularly set forth herein in detail.

Assistance to Juvenile Court by county officials.

SEC. 6. That it shall be the duty of all officers of the County of Forsyth to assist the juvenile court in any and all ways in the line of their official duty as fully and to the same extent and in the same manner as they have been authorized and required to do heretofore in the case of all other courts of said county.

City of Winston-Salem and Forsyth County may combine juvenile court work.

SEC. 7. That the governing body of the City of Winston-Salem may, with the consent of the County Commissioners of Forsyth County, and upon such terms as may be agreed upon by contract between the governing body of the City of Winston-Salem and the Commissioners of Forsyth County, combine its juvenile court work with that of Forsyth County and shall thereafter during

the life of such contract be subject to all of the provisions of this Act.

Election of Judge and Assistant Judge in event of combination of juvenile work.

SEC. 8. In the event the City of Winston-Salem, through its governing body, determines to combine its juvenile court work with that of the County of Forsyth under the terms of this Act, then and in that event the governing body of the City of Winston-Salem and the Commissioners of Forsyth County shall elect the judge and assistant judge, the governing body of the City of Winston-Salem having one vote and the Commissioners of Forsyth County having one vote, and in the event that the governing body of the City of Winston-Salem and the Commissioners of Forsyth County cannot agree as to the judge and assistant judge as provided for in this section ,the deciding vote shall be cast by the Resident Judge of the Superior Court of Forsyth County.

Partial invalidity clause.

SEC. 9. That the sections of this Act and every part thereof are severable one from the others, and the holding of any section thereof to be invalid or void shall not affect any other section or part thereof: *Provided*, that this Act shall apply only to the County of Forsyth.

Conflicting laws repealed.

SEC. 10. That all laws in conflict with this Act are hereby repealed.

SEC. 11. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. B. 1175 CHAPTER 386

AN ACT TO AMEND HOUSE BILL NUMBER THREE HUNDRED AND TWENTY ENTITLED "AN ACT AUTHORIZING CITIES AND TOWNS HAVING A POPULATION OF MORE THAN FIVE THOUSAND TO ADOPT ORDINANCES RELATING TO THE REPAIR, CLOSING AND DEMOLITION OF DWELLINGS UNFIT FOR HUMAN HABITATION; AND PROVIDING FOR THE REMEDIES AND PROCEDURE IN CONNECTION WITH ACTION TAKEN UNDER SUCH ORDINANCES".

The General Assembly of North Carolina do enact:

H. B. 320, Ch. 287, Public Laws, 1939, authorizing municipalities to repair, close or demolish unfit dwellings, amended.

SECTION 1. Amend House Bill Number three hundred and twenty, entitled "An Act authorizing cities and towns having a population of more than five thousand to adopt ordinances relating to the repair, closing and demolition of dwellings unfit for human habitation; and providing for the remedies and procedure in connection with action taken under such ordinances", by striking out in Section six of said Act all of the language following the

period after the word "require" in line fourteen of said Act and before the word "provided" in line twenty-one of said Act, and further amend said Act by adding a new section to be known as Section six and one-half to read as follows:

Compensation to owners of condemned property.

"SEC. 6½. *Provided* that nothing in this Act shall be construed as preventing the owner or owners of any property affected by the provisions of said Act from receiving just compensation for any property as may be condemned or destroyed under the provisions of said Act."

Conflicting laws repealed.

SEC. 2. All laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. B. 41 CHAPTER 387

AN ACT TO AMEND CHAPTER THREE HUNDRED TWENTY-FOUR OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-FIVE RELATIVE TO THE STATE HIGHWAY PATROL.

The General Assembly of North Carolina do enact:

Sec. 2, Ch. 324, Public Laws, 1935, amended.

SECTION 1. That Section two of Chapter three hundred twenty-four of the Public Laws of one thousand nine hundred thirty-five be stricken out and the following substituted in lieu thereof:

Supervision of Highway Patrol by Commissioner of Revenue, under direction of Governor.

Highway Safety Division.

Functions of Division.

"SEC. 2. The Commissioner of Revenue, under the direction of the Governor, shall have supervision, direction and control of the State Highway Patrol, and the Commissioner of Revenue is hereby directed to set up in his department a division of highway safety and to make rules and regulations governing said division, and shall have a right to assign to the said division of highway safety the responsibilities of the administration of the Uniform Drivers Law, ratified on February twenty-eighth, one thousand nine hundred thirty-five, and to assign to said division such other duties and work not inconsistent with the provisions of this Act, as he may deem proper."

Sec. 3, amended to require approval by Governor of rules adopted for regulation of State Highway Patrol.

SEC. 2. That Section three of Chapter three hundred twenty-four of the Public Laws of one thousand nine hundred thirty-five be amended by inserting after the comma following the word "Revenue", and before the word "and" in line eight, the following: "with the approval of the Governor".

Sec. 5 amended as to cooperation between Patrol and local officers.

SEC. 3. That Section five of Chapter three hundred twenty-four of the Public Laws of one thousand nine hundred thirty-five

be amended by inserting after the comma following the word "Revenue", and before the word "through" in line one, the words, "with the approval of the Governor".

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

S. B. 209 CHAPTER 388

AN ACT TO PROVIDE FUNDS FOR THE CONSTRUCTION AND EQUIPMENT OF A SMALLMOUTH BASS FISH HATCHERY AND TWO SUB-REARING STATIONS AND PROVIDE FOR THEIR OPERATION AND MAINTENANCE UNDER THE DEPARTMENT OF CONSERVATION AND DEVELOPMENT.

WHEREAS, there is not at the present time a hatchery in North Carolina suitably located to propagate smallmouth bass, a species of game fish whose range extends throughout the United States in waters having a semi-cold temperature, which waters are not suitably adapted to the production of other species of game fish, and Preamble: Present hatcheries in North Carolina not suitably located for propagation of smallmouth bass.

WHEREAS, the restocking of these now empty waters would be of distinct benefit to thousands of native North Carolinians for sport and food purposes and an attraction to many fishing tourists, and Benefits obtainable from restocking adaptable waters.

WHEREAS, the Division of Game and Inland Fisheries under the Department of Conservation and Development is operated solely upon the revenue received from the sale of hunting and fishing licenses, and the revenue, therefrom, is insufficient both to construct and maintain the hatchery and necessary substations. The cost of this project alone will be one hundred and eighty thousand ($180,000.00) dollars, one-third of which is to be provided by the Division of Game and Inland Fisheries, the other two-thirds to be provided by the United States Government. The Division of Game and Inland Fisheries is to operate, maintain and receive the benefits of such hatchery. The sites for the hatchery and sub-rearing stations have been selected and purchased by the Division of Game and Inland Fisheries under the Department of Conservation and Development; *Now, therefore, The General Assembly of North Carolina do enact:* Provisions made for establishment of main hatchery and substations, by Division of Game and Inland Fisheries. Cost of project.

SECTION 1. That for the purpose of establishing a smallmouth bass main hatchery in McDowell County, one sub-rearing station

Appropriation for establishment of smallmouth bass hatchery and sub-rearing stations.

in Burke County, and one sub-rearing station in Graham County by the Division of Game and Inland Fisheries under the Department of Conservation and Development, there is hereby specifically appropriated the sum of thirty thousand ($30,000.00) dollars, or as much thereof as may be necessary, in the discretion of the Division of Game and Inland Fisheries under the Department of Conservation and Development, in carrying out the purpose of this Act.

Expenditure of appropriation under supervision of Division of Game and Inland Fisheries.

SEC. 2. That the expenditure of the hereinbefore provided sum of thirty thousand ($30,000.00) dollars for the construction and equipment of a fish hatchery and two sub-rearing stations shall be under the supervision of the Department of Conservation and Development, Division of Game and Inland Fisheries, and shall be expended under the same laws, rules and regulations now prescribed and governing the Department of Conservation and Development, Division of Game and Inland Fisheries: *Provided* that the appropriation herein referred to shall not be made from the general funds of the State, but shall be made from the funds of the Department of Conservation and Development, if such funds are available and approved by the director of the budget.

Appropriation to be made from funds of Dept. of Conservation and Development.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. This Act shall be in full force and effect from the date of its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

S. B. 216 CHAPTER 389

AN ACT TO AMEND CHAPTER FOUR HUNDRED FOURTEEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN RELATIVE TO THE TAX ON SCRAP OR UNTIED TOBACCO.

The General Assembly of North Carolina do enact:

Sec. 1, Ch. 414, Public Laws, 1937, amended to decrease annual license tax on dealers in scrap or untied tobacco.

SECTION 1. That Section one of Chapter four hundred fourteen of the Public Laws of one thousand nine hundred thirty-seven be amended by striking out in line twelve the words and figures "one thousand dollars ($1,000.00)", and inserting in lieu thereof the words and figures "two hundred fifty dollars ($250.00)".

Sec. 3, amended.

SEC. 2. That Section three of Chapter four hundred fourteen of the Public Laws of one thousand nine hundred thirty-seven be stricken out and the following substituted in lieu thereof:

"SEC. 3 (a). That if any person, firm or corporation licensed to engage in the business aforesaid has a warehouse, office or fixed place of business, the license issued by the Commissioner of Revenue as herein provided shall be displayed in a conspicuous place in said warehouse, office or place of business. Such license so obtained shall not be transferable and shall authorize such person, firm or corporation to engage in the business described in this Act only on the premises described in the license. Only one original license shall be issued to any person, firm or corporation, which will authorize such person, firm or corporation to engage in such business in the county for which such license is issued. If such person, firm or corporation shall have no warehouse, office, or fixed place of business in the county where such business is carried on, if the original license is to be issued to a firm, partnership or copartnership, there shall be designated on such license the name of the individual who is to exercise the privilege granted on behalf of such firm, partnership or copartnership. If such license is to be issued to a corporation, there shall be designated on such license the name of the individual who is to exercise the privilege granted on behalf of such corporation and the license so issued will authorize only the individual designated thereon to engage in such business for or on behalf of such person, firm, partnership, copartnership or corporation, and none other. If such person, firm or corporation carries on the business herein described through agents, representatives, solicitors, or peddlers other than those named on the original license issued, as herein provided, additional and like licenses, for which there shall be paid the sum of two hundred fifty dollars ($250.00), shall be obtained for such additional agents, representatives, solicitors, or peddlers for each county in which such business is carried on, in the manner hereinafter set out, and all original and additional licenses issued to persons, firms or corporations which have no warehouse, office or fixed place of business shall be carried on the person of such licensee and shall be exhibited when requested or demanded by any law enforcement officer of North Carolina, or any person from whom such tobacco is bought, or to whom the same may be sold.

Display of license at place of business.

License not transferable, etc.

One original license for each county.

Licenses to firms, etc. having no fixed place of business.

To corporation.

Additional licenses where business is carried on through agents, representatives, etc.

License to be exhibited on demand.

"Any person, firm or corporation applying for and obtaining a license under this Act may employ traveling representatives, agents, peddlers, or solicitors for the purpose of buying and/or selling scrap tobacco, but such traveling representatives, agents or peddlers shall apply for and obtain from the Commissioner of Revenue a separate additional license on behalf of such person, firm or corporation whom or which he represents and shall pay for such license a tax of two hundred fifty dollars ($250.00) for each additional license so issued. Every such additional license issued hereunder shall run from the date thereof and shall expire on the thirty-first day of May of the next year following its issue. No license shall be issued for less than the full amount of tax prescribed. Such traveling representative, agent or peddler en-

License for traveling representative.

Amount of tax.

Exhibited on demand.

gaged in such business shall carry on his person the license so obtained, which shall be exhibited when requested or demanded by any law enforcement officer of North Carolina or any person from whom such tobacco is bought or to whom the same may be sold.

License for processing, redrying, etc. of scrap tobacco.

"(b). If any such person, firm or corporation described in subsection (a) or this section, and who is engaged in the business of buying and/or selling scrap tobacco within the meaning of this Act, and who maintains and operates in connection therewith a plant or factory where such scrap tobacco is processed, manufactured, or redried, shall apply for and obtain from the Commissioner of Revenue a license to engage in such business and for that purpose shall file with the Commissioner of Revenue an application setting forth the name of the county or counties in which such applicant proposes to engage in such business, and the place or places where his, their, or its principal office is situated, and shall pay for such license a tax of five hundred dollars ($500.00) for each county in this State in which the applicant proposes to engage in such business. The license so issued shall authorize the person, firm or corporation to whom it is issued to engage in such business only on the premises designated in the license. Persons, firms or corporations taxed under this subsection shall not be required to pay the license tax provided for in subsection (a) of this section. Every such license issued hereunder shall run from the date thereof and shall expire on the thirty-first day of May of the next year following its issue and no license shall be issued for less than the full amount of the tax prescribed."

Application.

Amount of tax.

Limitation.

Exemption.

Expiration date of license.

Section 4½, amended.

Application of Act.

SEC. 3. That Section four and one half of Chapter four hundred fourteen of the Public Laws of one thousand nine hundred thirty-seven be amended by striking out the period following the word "thirty-seven" at the end thereof and substituting a comma therefor, and adding the following: "or to purchases or sales of scrap or untied tobacco which has been processed, redried or manufactured."

SEC. 4. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 5. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

S. B. 271 **CHAPTER 390**

AN ACT TO PERMIT COUNTIES, CITIES, AND TOWNS TO PROVIDE OLD AGE SECURITY FOR OLD AND INCAPACITATED LOCAL GOVERNMENT EMPLOYEES, TO PROVIDE FOR THE CREATION OF A RETIREMENT FUND THROUGH THE JOINT CONTRIBUTIONS OF EMPLOYERS AND EMPLOYEES, AND TO PROVIDE MACHINERY FOR THE PROPER ADMINISTRATION OF THIS ACT.

The General Assembly of North Carolina do enact:

Definitions.

SECTION 1. *Definitions.* The following words and phrases as used in this Act, unless a different meaning is plainly required by the context, shall have the following meanings:

"Retirement system."

(1) "Retirement System" shall mean the North Carolina Governmental Employees' Retirement System as defined in this Act.

"Employer."

(2) "Employer" shall mean any county or incorporated city or town participating in the Retirement System. The North Carolina League of Municipalities and the office of the Retirement System shall be classed as employers eligible to participate in the Retirement System.

"Employee."

(3) "Employee" shall mean any person who is regularly employed in the service of and whose salary or compensation is paid by the employer as defined in Subsection two of this section, whether employed or appointed for stated terms or otherwise, except teachers in the public schools and except such employees who hold office by popular election as are not required to devote a major portion of their time to the duties of their office. In all cases of doubt the board of trustees shall decide who is an employee.

"Member."

(4) "Member" shall mean any person included in the membership of the Retirement System as provided in Section four of this Act.

"Service."

(5) "Service" shall mean service as an employee as described in Subsection three of this section and paid for by the employer as described in Subsection two of this section.

"Prior Service."

(6) "Prior Service" shall mean the service of a member rendered before the first day of July, nineteen hundred thirty-nine, certified on a prior service certificate and allowable as provided in Section six of this Act.

"Membership Service."

(7) "Membership Service" shall mean service as an employee rendered while a member of the Retirement System.

"Creditable Service."

(8) "Creditable Service" shall mean "Prior Service" plus "Membership Service" for which credit is allowable as provided in Section six of this Act.

(9) "Board of Trustees" shall mean the board provided for in Section eight of this Act to administer the Retirement System.

"Medical Board." (10) "Medical Board" shall mean the board of physicians provided for in Section eight, Subsection twelve of this Act.

"Accumulated Contribution." (11) "Accumulated Contribution" shall mean the sum of all amounts deducted from the compensation of a member and credited to his individual account in the annuity savings fund, together with regular interest thereon, as provided in Section ten, Subsection one of this Act.

"Regular interest." (12) "Regular Interest" shall mean interest compounded annually at such rate as shall be determined by the Board of trustees in accordance with Section nine, Subsection two.

"Annuity." (13) "Annuity" shall mean payments for life derived from the accumulated contribution of a member. All annuities shall be payable in equal monthly installments.

"Pension." (14) "Pension" shall mean payments for life derived from money provided by the employer. All pensions shall be payable in equal monthly installments.

"Retirement Allowance." (15) "Retirement Allowance" shall mean the sum of the annuity and the pension, or any optional benefit payable in lieu thereof.

"Retirement." (16) "Retirement" shall mean withdrawal from active service with a retirement allowance granted under the provisions of this Act.

"Annuity Reserve." (17) "Annuity Reserve" shall mean the present value of all payments to be made on account of any annuity or benefit in lieu of any annuity computed at regular interest upon the basis of such mortality tables as shall be adopted by the board of trustees.

"Pension Reserve." (18) "Pension Reserve" shall mean the present value of all payments to be made on account of any pension or benefit in lieu of any pension computed at regular interest upon the basis of such mortality tables as shall be adopted by the board of trustees.

"Earnable Compensation." (19) "Earnable Compensation" shall mean the full rate of the compensation that would be payable to an employee if he worked the full normal working time, including any allowance of maintenance or in lieu thereof received by the member.

"Average Final Compensation." (20) "Average Final Compensation" shall mean the average annual earnable compensation of an employee during his last five years of service, or if he had less than five years of service, then his average earnable compensation for his total service.

"Beneficiary." (21) "Beneficiary" shall mean any person in receipt of a pension, an annuity, a retirement allowance or other benefit as provided by this Act.

(22) "Actuarial Equivalent" shall mean a benefit of equal value when computed at regular interest upon the basis of such mortality tables as shall be adopted by the board of trustees. "Actuarial Equivalent."

(23) "Fiscal Year" shall mean any year commencing July first and ending June thirtieth next following. "Fiscal Year."

SEC. 2. *Name and date of Establishment.* A Retirement system is hereby established and placed under the management of the board of trustees for the purpose of providing retirement allowances and other benefits under the provisions of this Act for employees of those counties, cities and towns or other eligible employers participating in the said Retirement System. The Retirement System so created shall become operative as of the first day of July, nineteen hundred and thirty-nine: *Provided,* that in the judgment of the board of trustees an adequate number of persons have indicated their intention to particpate; otherwise at such later date as the board of trustees may set. Establishment of Retirement System authorized. Purpose of System. Operative date.

It shall have the power and privileges of a corporation and shall be known as the "North Carolina Governmental Employees' Retirement System," and by such name all of its business shall be transacted, all of its funds invested, and all of its cash and securities and other property held. "North Carolina Governmental Employees' Retirement System."

SEC. 3. *Acceptance by Cities, Towns and Counties.* (1) The governing body of any incorporated city or town may, by resolution legally adopted and approved by the board of trustees, elect to have its employees become eligible to participate in the Retirement System, and the said municipal governing body may make the necessary appropriation therefor and if necessary levy annually taxes for payment of the same. Acceptance of participation in System by municipalities. Appropriation and tax levy authorized.

(2) The Board of Commissioners of any county may, by resolution legally adopted and approved by the board of trustees, elect to have its employees become eligible to participate in the Retirement System, and the said County Board of Commissioners may make the necessary appropriation therefor and if necessary levy annually taxes for payment of the same as a special purpose, in addition to any tax allowed by any special statute for the purposes enumerated in Section one thousand two hundred and ninety-seven of the Consolidated Statutes and in addition to the rates allowed by the Constitution. Acceptance of participation in System by counties. Appropriation and special tax levy authorized.

(3) Any eligible employer desiring to participate in the Retirement System shall file with the board of trustees an application for participation under the conditions included in this Act on a form approved by the board of trustees. In such application the employer shall agree to make the contributions required of participating employers, to deduct from the salaries of employees who may become members the contributions required of members under this Act, and to transmit such contributions to the board of trustees. It shall also agree to make the employer's contribu- Application of eligible employer for participation. Agreements of employer as to contributions, deductions, etc.

tions for the participation in the Retirement System of all employees entering the service of the employer, after its participation begins, who shall become members.

Contributions by employers.

(4) Such contributions as are made by employers shall be regarded as additions to the compensation of such employees as are members of the Retirement System and deducted therefrom for the purpose of making the employer's contribution, in addition to the deduction from the compensation of employees on account of member contributions.

Employer's agreement of contribution irrevocable.

Temporary default of employer.

Liability for contributions unaffected.

Interest added to delayed contributions.

Employer restored to good standing upon payment.

(5) The agreement of such employer to contribute on account of its employees shall be irrevocable, but should an employer for any reason become financially unable to make the normal and accrued liability contributions payable on account of its employees, then such employer shall be deemed to be in temporary default. Such temporary default shall not relieve such employer from any liability for its contributions payable on account of its employees, but such contributions payable during the period of temporary default shall be paid at such later time as may be mutually agreed upon by the employer and the board of trustees together with interest thereon at the rate of six percentum (6%) per annum. At such time as such defaulted contributions together with interest thereon shall be fully paid, such employer shall no longer be deemed in temporary default and shall be restored to good standing in the Retirement System.

Retirement Service not liable for benefits for which reserves have not been created.

Notwithstanding anything to the contrary, the Retirement System shall not be liable for the payment of any pensions or other benefits on account of the employees or pensioners of any employer under this Act, for which reserves have not been previously created from funds contributed by such employer or its employees for such benefits.

Eligibility of employees of local units etc., for membership in System.

SEC. 4. *Certain County, City and Town Employees Entitled to Membership.* On and after July first, nineteen hundred and thirty-nine, any employee of any county, city or town in North Carolina, or other employer as described in Section one, Subsection two, of this Act, except such employees as are now eligible to participate in a Retirement System wholly or partly maintained at the expense of a county, city or town, shall be entitled to membership in the North Carolina Governmental Employees' Retirement System: *Provided*, that the employees of any county, city or town shall not be included in the Retirement System without the approval of the Board of Commissioners or other governing body of any such county, city or town, as provided in Section three of this Act. Should the Board of Commissioners of a county or the governing body of a city or town on or after January first, nineteen hundred and forty-one, give its approval to the participation of the employees of any such county, city or town in the Governmental Employees' Retirement System as provided above, such employees shall be eligible to

Approval of governing bodies of local units required.

participate in the North Carolina Governmental Employees' Retirement System as specifically provided hereinafter for such employees.

Optional membership in System.

SEC. 5. *Membership in System.* (1) Membership in the Retirement System shall be optional with all county, city and town employees in service on July first, nineteen hundred and thirty-nine, and any such employees who elect to join the Retirement System on or before July first, nineteen hundred and forty, shall be entitled to a prior service certificate covering service prior to July first, nineteen hundred and thirty-nine, in the same manner as provided under the provisions of Section six of this Act. Membership in the Retirement System for such employees who are admitted as provided in the last sentence of Section four of this Act shall be optional with such employees in the service on the date the approval is given, and any such employee who elects to join the Retirement System within one calendar year thereafter, or any person who becomes a member of his first day of eligibility to membership and within five years after rendering service prior to such date of approval, shall be entitled to a prior service certificate covering full credit for service rendered prior to July first, nineteen hundred and thirty-nine, and credit for three quarters of the service rendered on or after such date to date of the approval, which may be allowed as full time if especially approved by the county, city or town, such latter credit to be a part of the maximum prior service allowance as provided in Section six except one year thereof which may be member service if he was in the service of the county, city or town during the entire year immediately preceding his retirement, if necessary for any form of retirement or benefit. After any county, city or town elects to participate in the Retirement System, membership shall be compulsory on all employees entering or reentering the service of such county, city or town. The board of trustees is hereby empowered to make arrangements with such county, city or town for the payment of the accrued liability as computed by the actuary, on such terms as the financial conditions of the county, city or town will permit.

Membership compulsory upon employees after employing unit elects to participate.

Membership in North Carolina Governmental Employees' Retirement System.

(2) Should sixty percentum (60%) of the members of any retirement, pension or annuity fund or system of any county, city or town of the State, hereafter referred to as a local pension system, elect to become members of the North Carolina Govrnmental Employees' Retirement System, by a petition duly signed by such members, the participation of such members in the Retirement System may be approved as provided in Section four of this Act as though such local pension system were not in operation, and the provisions of this Act shall also apply, except that the existing pensioners or annuitants of the local pension system who were being paid pensions on the date of the approval shall be continued and paid at their existing rates by the North Carolina Governmental Employees' Retirement System, and the lia-

bility on this account shall be included in the computation of the accrued liability by the actuary as provided by Section ten, Subsection three. Any cash and securities to the credit of the local pension system shall be transferred to the North Carolina Governmental Employees' Retirement System as of the date of the approval. The trustees or other administrative head of the local pension system as of the date of the approval shall certify the proportion, if any, of the funds of the system that represents the accumulated contributions of the members, and the relative shares of the members as of that date. Such shares shall be credited to the respective annuity savings accounts of such members in the North Carolina Governmental Employees' Retirement System. The balance of the funds transferred to the North Carolina Governmental Employees' Retirement System shall be offset against the accrued liability before determining the special accrued liability contribution to be paid by the county, city or town as provided by Section ten, Subsection three. The operation of the local pension system shall be discontinued as of the date of the approval.

Transfer of cash and securities from local pension system.

Allowance for service.

SEC. 6. *Allowance for Service.* (1) Under such rules and regulations as the board of trustees shall adopt each member who was an employee at any time during the year immediately preceding July first, nineteen hundred and thirty-nine, and who becomes a member during the first year of operation of the Retirement System, shall file a detailed statement of all service as an employee rendered by him to any county, city or town prior to July first, nineteen hundred and thirty-nine, for which he claims credit.

Prior service statements by members.

Determination of years service.

(2) The board of trustees shall fix and determine by appropriate rules and regulations how much service in any year is equivalent to one year of service, but in no case shall more than one year of service be creditable for all service in one calendar year.

Verification of service statement.

(3) Subject to the above restrictions and to such other rules and regulations as the board of trustees may adopt, the board of trustees shall verify, as soon as practicable after the filing of such statements of service, the service therein claimed.

Compensation rate.

In lieu of a determination of the actual compensation of the members that was received during such period of prior service, the board of trustees may use for the purpose of this Act the compensation rates which if they had progressed with the rates of salary increase shown in the tables as prescribed in Subsection fourteen of Section eight of this Act would have resulted in a same average salary of the member for the five years immediately preceding July first, nineteen hundred and thirty-nine, as the records show the member actually received.

Prior service certificates.

(4) Upon verification of the statements of service the board of trustees shall issue prior service certificates certifying to each

member the length of service rendered prior to July first, nineteen hundred and thirty-nine, with which he is credited on the basis of his statement of service. So long as membership continues a prior service certificate shall be final and conclusive for retirement purposes as to such service: *Provided, however,* that any member may, within one year from the date of issuance or modification of such certificate, request the board of trustees to modify or correct his prior service certificate.

Certificate void upon discontinuance of membership.

When membership ceases, such prior service certificate shall become void. Should the employee again become a member, such employee shall enter the system as an employee not entitled to prior service credit except as provided in Section seven, Subsection five paragraph (b) of this Act.

Creditable service.

(5) Creditable service at retirement on which the retirement allowance of a member shall be based shall consist of the membership service rendered by him since he last became a member, and also if he has a prior service certificate which is in full force and effect, the amount of the service certified on his prior service certificate.

SEC. 7. *Benefits.*

Service Retirement Benefit.

SERVICE RETIREMENT BENEFIT

Application.

(1) (a) Any member in service may retire upon written application to the board of trustees setting forth at what time, not less than thirty days nor more than ninety days subsequent to the execution and filing thereof, he desires to be retired: ***Provided,*** that the said member at the time so specified for his retirement shall have attained the age of sixty years, and notwithstanding that, during such period of notification, he may have separated from service.

Retirement at age of sixty-five.

(b) Any member in service who has attained the age of sixty-five shall be retired at the end of the fiscal year unless the employing board requests such person to remain in the service, and notice of this request is given in writing thirty days prior to the end of the fiscal year.

Retirement at age of seventy.

(c) Any member in service who has attained the age of seventy years shall be retired forthwith: *Provided,* that with the approval of his employer he may remain in service until the end of the fiscal year following the date on which he attains the age of seventy years: *Provided, further,* that with the approval of the board of trustees and his employer, any member who has attained or shall attain the age of seventy years may be continued in service for a period of two years following each such request.

Allowance for service retirement.

ALLOWANCE FOR SERVICE RETIREMENT

(2) Upon retirement from service a member shall receive a service retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of his retirement; and

Pension.

(b) A pension equal to the annuity allowable at the age of sixty years computed on the basis of contributions made prior to the attainment of age sixty; and

Additional pension for prior service certificate.

(c) If he has a prior service certificate in full force and effect, an additional pension which shall be equal to the annuity which would have been provided at the age of sixty years by twice the contributions which he would have made during such prior service had the system been in operation and he contributed thereunder.

Disability Retirement Benefits.

DISABILITY RETIREMENT BENEFITS

Application.

(3) Upon the application of a member in service or of his employer, any member who has had ten or more years of creditable service may be retired by the board of trustees, not less than thirty and not more than ninety days next following the date of filing such application, on a disability retirement allowance:

Certification by medical board as to disability.

Provided, that the medical board, after a medical examination of such member, shall certify that such member is mentally or physically incapacitated for the further performance of duty, that such incapacity is likely to be permanent, and that such member should be retired.

Allowance on disability retirement.

ALLOWANCE ON DISABILITY RETIREMENT

(4) Upon retirement for disability a member shall receive a service retirement allowance, if he has attained the age of sixty years, otherwise he shall receive a disability retirement allowance which shall consist of:

Annuity.

(a) An annuity which shall be the actuarial equivalent of his accumulated contributions at the time of the retirement, and

Pension.

(b) A pension equal to seventy-five percentum of the pension that would have been payable upon service retirement at the age of sixty years had the member continued in service to the age of sixty years without further change in compensation.

REEXAMINATION OF BENEFICIARIES RETIRED ON ACCOUNT OF DISABILITY

Examinations of beneficiaries retired on account of disability.

(5) Once each year during the first five years following retirement of a member on a disability retirement allowance, and once in every three year period thereafter, the board of trustees may, and upon his application shall, require any disability beneficiary who has not yet attained the age of sixty years to undergo a medical examination, such examination to be made at the place of residence of said beneficiary or other place mutually agreed upon, by a physician or physicians designated by the board of trustees. Should any disability beneficiary who has not yet at-

tained the age of sixty years refuse to submit to at least one medical examination in any such year by a physician or physicians designated by the board of trustees, his allowance may be discontinued until his withdrawal of such refusal, and should his refusal continue for one year, all his rights in and to his pension may be revoked by the board of trustees.

Discontinuance of allowance upon refusal to submit to examination.

(a) Should the medical board report and certify to the board of trustees that such disability beneficiary is engaged in or is able to engage in a gainful occupation paying more than the difference between his retirement allowance and the average final compensation, and should the board of trustees concur in such report, then the amount of his pension shall be reduced to an amount which, together with his annuity and the amount earnable by him, shall equal the amount of his average final compensation. Should his earning capacity be later changed, the amount of his pension may be further modified: *Provided,* that the new pension shall not exceed the amount of the pension originally granted nor an amount which, when added to the amount earnable by the beneficiary together with his annuity, equals the amount of his average final compensation. A beneficiary restored to active service at a salary less than the average final compensation shall not become a member of the Retirement System.

Reduction of pensions to beneficiaries able to engage in gainful occupation.

Modifications in amount of pensions.

(b) Should a disability beneficiary under the age of sixty years be restored to active service at a compensation not less than his average final compensation, his retirement allowance shall cease, he shall again become a member of the Retirement System, and he shall contribute thereafter at the same rate he paid prior to disability. Any such prior service certificate on the basis of which his service was computed at the time of his retirement shall be restored to full force and effect, and in addition, upon his subsequent retirement he shall be credited with all his service as a member, but should he be restored to active service on or after the attainment of the age of fifty years his pension upon subsequent retirement shall not exceed the sum of the pensions which he was receiving immediately prior to his last restoration and the pension that he would have received on account of his service since his last restoration had he entered service at that time as a new entrant.

Status of disability beneficiaries restored to active service.

RETURN OF ACCUMULATED CONTRIBUTIONS

Return of accumulated contributions.

(6) Should a member cease to be an employee except by death or retirement under the provisions of this Act, he shall be paid such part of the amount of the accumulated contributions standing to the credit of his individual account in the annuity savings fund as he shall demand. Should a member die before retirement the amount of his accumulated contributions standing to the credit of his individual account shall be paid to his estate or to such person as he shall have nominated by written designation, duly executed and filed with the board of trustees.

Payment of accumulated contributions to estate of deceased members.

Optional allowance.

OPTIONAL ALLOWANCE

(7) With the provision that no optional selection shall be effective in case a beneficiary dies within thirty days after retirement, and that such a beneficiary shall be considered as an active member at the time of death; until the first payment on account of any benefit becomes normally due, any member may elect to receive his benefit in a retirement allowance payable throughout life, or he may elect to receive the actuarial equivalent at that time, of his retirement allowance in a reduced retirement allowance payable throughout life with the provision that:

Option one.

Option one. If he dies before he has received in annuity payments the present value of his annuity as it was at the time of his retirement, the balance shall be paid to his legal representatives or to such person as he shall nominate by written designation duly acknowledged and filed with the board of trustees; or

Option two.

Option two. Upon his death his reduced retirement allowance shall be continued throughout the life of and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of trustees at the time of his retirement; or

Option three.

Option three. Upon his death, one half of his reduced retirement allowance shall be continued throughout the life of, and paid to such person as he shall nominate by written designation duly acknowledged and filed with the board of trustees at the time of his retirement; or

Option four.

Option four. Some other benefit or benefits shall be paid either to the member or to such person or persons as he shall nominate: *Provided*, such other benefit or benefits, together with the reduced retirement allowance, shall be certified by the actuary to be of equivalent actuarial value to his retirement allowance, and approved by the board of trustees.

SEC. 8. *Administration.*

BOARD OF TRUSTEES

Administration of system vested in board of trustees.

(1) The general administration and responsibility for the proper operation of the Retirement System and for making effective the provisions of this Act are hereby vested in a board of trustees which shall be organized immediately after a majority of the trustees provided for in this section shall have qualified and taken the oath of office. The board of trustees shall be a body politic and corporate under the name of "Board of Trustees Governmental Employees' Retirement System", and as a body politic and corporate shall have the right to sue and be sued, shall have perpetual succession and a common seal, and in said corporate name shall be able and capable in law to take, demand, receive and possess all kinds of real and personal property necessary and proper for its corporate purposes, and to bargain, sell,

Board declared a body politic and corporate, and vested with such powers.

grant, alien, or dispose of all such real and personal property as it may lawfully acquire. All such property owned or acquired by said body politic and corporate shall be exempt from all taxes imposed by the State or any political subdivision thereof, and shall not be subject to income taxes.

Board to consist of nine members.

(2) The board shall consist of nine members, as follows:

(a) The Attorney General, ex officio;

(b) The Commissioner of Insurance, ex officio;

(c) The Executive Secretary of the North Carolina League of Municipalities, ex officio;

Six members appointed by Governor.

(d) Six members to be appointed by the Governor of North Carolina. Two of the appointive members shall be mayors or members of the governing boards of cities or towns; two of the appointive members shall be regular employees of cities or towns; one of the appointive members shall be a member of a County Board of Commissioners; and one of the appointive members shall be a regular employee of a county. Two of the appointive members shall be appointed for a term of one year, two for a term of two years, and two for a term of three years. At the expiration of these terms of office the appointment shall be for a term of three years.

Staggered terms.

Vacancy appointments.

(3) If any member of the board of trustees shall discontinue or leave for any reason the service of the employer with which he was connected at the time of his appointment to the board of trustees, his place on the board of trustees shall become vacant as of the same date he terminated his services with the employer. If a vacancy occurs for any reason in the board of trustees, the vacancy shall be filled by the appointment of a successor trustee for the unexpired term in the manner provided in Subsection two of this section. Pending the filling of any such vacancy, the trustees shall exercise or perform all of the powers and duties of the board.

Reimbursement for expenses.

(4) The trustees shall serve as such without compensation, but they shall be reimbursed from the expense fund for all necessary expenses that they may incur through service on the board.

Oath of office of trustees.

(5) Each trustee shall, within ten days after his appointment or election, take an oath of office, that, so far as it devolves upon him, he will diligently and honestly administer the affairs of the said board, and that he will not knowingly violate or willingly permit to be violated any of the provisions of law applicable to the Retirement System. Such oath shall be subscribed to by the member making it, and certified by the officer before whom it is taken, and immediately filed in the office of the Secretary of State.

Each trustee entitled to one vote in board.

(6) Each trustee including those ex officio shall be entitled to one vote in the board. Five votes shall be necessary for a decision by the trustees at any meeting of said board.

Rules and regulations for administration of funds.

(7) Subject to the limitations of this Act, the board of trustees shall, from time to time, establish rules and regulations for the administration of the funds created by this Act, and for the transaction of its business.

Chairman and vice-chairman of board.

Secretary-treasurer.

(8) The board of trustees shall elect from its membership a chairman and a vice-chairman and shall by a majority vote of all its members appoint a secretary-treasurer, who may be, but need not be, one of its members. The board of trustees shall engage such actuarial and other service as shall be required to transact the business of the Retirement System. The compensation of all persons engaged by the board of trustees, and all other expenses of the board necessary for the operation of the Retirement System, shall be paid at such rates and in such amounts as the board of trustees shall approve. Any officers or employees of the Retirement System who may be required to handle cash or securities shall be bonded in such amounts as the trustees shall determine.

Payment of compensation of employees and expenses of operation.

Bond required of officials or employees.

Data to be kept by board.

(9) The board of trustees shall keep in convenient form such data as shall be necessary for actuarial valuation of the various funds of the Retirement System, and for checking the experience of the system.

Record of proceedings of board.

Publication of annual report.

(10) The board of trustees shall keep a record of all of its proceedings which shall be open to public inspection. It shall publish annually a report showing the fiscal transactions of the Retirement System audited by the actuary or other independent auditor for the preceding fiscal year, the amount of the accumulated cash and securities of the system, and the last balance sheet showing the financial condition of the system by means of an actuarial valuation of the assets and liabilities of the Retirement System.

LEGAL ADVISER

Attorney General as legal adviser to board.

(11) The Attorney General shall be the legal adviser of the board of trustees.

MEDICAL BOARD

Appointment of medical board.

Duties of medical board.

(12) The board of trustees shall designate a medical board to be composed of three physicians not eligible to participate in the Retirement System. If required, other physicians may be employed to report on special cases. The medical board shall arrange for and pass upon all medical examinations required under the provisions of this Act, and shall investigate all essential statements and certificates by or on behalf of a member in connection with an application for disability retirement, and shall

report in writing to the board of trustees its conclusion and recommendations upon all the matters referred to it.

DUTIES OF ACTUARY

Appointment of actuary.

(13) The board of trustees shall designate an actuary who shall be the technical adviser of the board of trustees on matters regarding the operation of the funds created by the provisions of this Act and shall perform such other duties as are required in connection therewith.

Duties.

Investigation of mortality, service and compensation experience of members.

(14) Immediately after the establishment of the Retirement System the actuary shall make such investigation of the mortality, service and compensation experience of the members of the system as he shall recommend and the board of trustees shall authorize, and on the basis of such investigation he shall recommend for adoption by the board of trustees such tables and such rates as are required in Subsection fifteen, paragraphs (a) and (b) of this section. The board of trustees shall adopt tables and certify rates, and as soon as practicable thereafter the actuary shall make a valuation based on such tables and rates, of the assets and liabilities of the funds created by this Act.

Adoption of tables and rates.

Actuarial investigations.

(15) In the year nineteen hundred forty-one, and at least once in each five year period thereafter, the actuary shall make an actuarial investigation into the mortality, service and compensation experience of the members and beneficiaries of the Retirement System, and shall make a valuation of the assets and liabilities of the funds of the system, and, taking into account the result of such investigation and valuation, the board of trustees shall:

Adoption of tables.

(a) Adopt for the Retirement System such mortality, service and other tables as shall be deemed necessary; and

Certification of rates.

(b) Certify the rates of contribution payable by employers on account of new entrants at various ages.

Annual valuation of assets, etc.

(16) On the basis of such tables as the board of trustees shall adopt, the actuary shall make an annual valuation of the assets and liabilities of the funds of the system created by this Act.

MANAGEMENT OF FUNDS

Management of funds, vested in board of trustees.

SEC. 9. The board of trustees shall be the trustee of the several funds created by this Act as provided in Section ten, and shall have full power to invest and reinvest such funds, subject to all the terms, conditions, limitations and restrictions imposed by the laws of North Carolina upon domestic life insurance companies in the making and disposing of their investment; and subject to like terms, conditions, limitations and restrictions, said trustee shall have full power to hold, purchase, sell, assign, transfer and dispose of any of the securities and investments in which

any of the funds created herein shall have been invested, as well as the proceeds of said investments and any monies belonging to said funds.

Annual allowance of regular interest.

(2) The board of trustees annually shall allow regular interest on the mean amount for the preceding year in each of the funds with the exception of the expense fund. The amounts so allowed shall be due and payable to said funds, and shall be annually credited thereto by the board of trustees from interest and other earnings on the monies of the Retirement System. Any additional amount required to meet the interest on the funds of the Retirement System shall be paid from the pension accumulation fund, and any excess of earnings over such amount required shall be paid to the pension accumulation fund. Regular interest shall mean such percentum rate to be compounded annually as shall be determined by the board of trustees on the basis of the interest earnings of the system for the preceding year and of the probable earnings to be made, in the judgment of the board, during the immediate future.

Secretary-treasurer designated as custodian of funds.

Bond required.

(3) The secretary-treasurer of the board of trustees shall be the custodian of the several funds. All payments from said funds shall be made by him only upon vouchers signed by two persons designated by the board of trustees. The secretary-treasurer of the board of trustees shall furnish said board a surety bond in a company authorized to do business in North Carolina in such an amount as shall be required by the board, the premium to be paid from the expense fund.

Available cash deposits for meeting disbursements.

(4) For the purpose of meeting disbursements for pensions, annuities and other payments there may be kept available cash, not exceeding ten percentum of the total amount in the several funds of the Retirement System, on deposit in one or more banks or trust companies of the State of North Carolina, organized under the laws of the State of North Carolina, or of the United States: *Provided*, that the sum on deposit in any one bank or trust company shall not exceed twenty-five percentum of the paid up capital and surplus of such bank or trust company.

Selection of depositories.

(5) The board of trustees shall select a bank or banks for the deposits of the funds and securities of the Retirement System in the same manner as such banks are selected by the Treasurer of the State of North Carolina. Such banks selected shall be required to conform to the law governing banks selected by the State. The funds and properties of the North Carolina Governmental Employees' Retirement System held in any bank of the State shall be safeguarded by a fidelity and surety bond, the amount to be determined by the board of trustees.

Immunity of funds.

(6) Except as otherwise herein provided, no trustee and no employee of the board of trustees shall have any direct interest in the gains or profits of any investment made by the board of trustees, nor as such receive any pay or emolument for this service.

No trustee or employee of the board shall, directly or indirectly, for himself or as an agent in any manner use the same, except to make such current and necessary payments as are authorized by the board of trustees; nor shall any trustee or employee of the board of trustees become an endorser or surety or in any manner an obligor for monies loaned or borrowed from the board of trustees.

METHOD OF FINANCING

Method of financing.

SEC. 10. All of the assets of the Retirement System shall be credited according to the purpose for which they are held to one of five funds, namely, the annuity savings fund, the annuity reserve fund, the pension accumulation fund, the pension reserve fund and the expense fund.

(1) Annuity Savings Fund.

Annuity savings fund.

The annuity savings fund shall be a fund in which shall be accumulated contributions from the compensation of members to provide for their annuities. Contributions to and payments from the annuity savings fund shall be made as follows:

Deductions by participating employer from salaries of member employees.

(a) Each participating employer shall cause to be deducted from the salary of each member on each and every payroll of such employer for each and every payroll period four percentum (4%) of his earnable compensation. But the employer shall not have any deduction made for annuity purposes from the compensation of a member who elects not to contribute if he has attained the age of sixty years and has completed thirty-five years of service. In determining the amount earnable by a member in a payroll period, the board of trustees may consider the rate of annual compensation payable to such member on the first day of the payroll period as continuing throughout such payroll period, and it may omit deduction from compensation for any period less than a full payroll period if an employee was not a member on the first day of the payroll period.

Exception.

Determination of salary of members.

Members deemed to agree to deductions.

(b) The deductions provided for herein shall be made notwithstanding that the minimum compensation provided for by law for any member shall be reduced thereby. Every member shall be deemed to consent and agree to the deductions made and provided for herein and shall receipt for his full salary or compensation, and payment of salary or compensation less said deduction shall be a full and complete discharge and acquittance of all claims and demands whatsoever for the services rendered by such person during the period covered by such payment, except as to the benefits provided under this Act. The employer shall certify to the board of trustees on each and every payroll or in such other manner as the board of trustees may prescribe, the amounts to be deducted; and each of said amounts shall be deducted, and when deducted shall be paid into said annuity savings fund, and shall be credited, together with regular interest

Certification by employer to board, of amounts deducted.

thereon to the individual account of the member from whose compensation said deduction was made.

Re-deposits by members of previous withdrawals.

(c) In addition to the contributions deducted from compensation as hereinbefore provided, subject to the approval of the board of trustees, any member may redeposit in the annuity savings fund by a single payment or by an increased rate of contribution an amount equal to the total amount which he previously withdrew therefrom as provided in this Act, or any part thereof; or any member may deposit therein by a single payment or by an increased rate of contribution an amount computed to be sufficient to purchase an additional annuity, which, together with his prospective retirement allowance, will provide for him a total retirement allowance of not to exceed one half of his average final compensation at age sixty. Such additional amounts so deposited shall become a part of his accumulated contributions except in the case of retirement, when they shall be treated as excess contributions returnable to the member in cash or as an annuity of equivalent actuarial value and shall not be considered in computing his pension. The accumulated contributions of a member drawn by him, or paid to his estate or to his designated beneficiary in event of his death as provided in this Act, shall be paid from the annuity savings fund. Upon the retirement of a member his accumulated contributions shall be transferred from the annuity savings fund to the annuity reserve fund.

Purchase by member of additional annuity.

Accumulated contributions payable from annuity savings fund.

Annuity reserve fund.

(2) Annuity Reserve Fund.

The annuity reserve fund shall be the fund in which shall be held the reserves on all annuities in force and from which shall be paid all annuities and all benefits in lieu of annuities, payable as provided in this Act. Should a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement his annuity reserve shall be transferred from the annuity reserve fund to the annuity savings fund and credited to his individual account therein.

Pension accumulation fund.

(3) Pension Accumulation Fund.

The pension accumulation fund shall be the fund in which shall be accumulated all reserves for the payment of all pensions and other benefits payable from contributions made by employers and from which shall be paid all pensions and other benefits on account of members with prior service credit. Contributions to and payments from the pension accumulation fund shall be made as follows:

Payments by employer to pension accumulation fund.

(a) Each participating employer shall pay to the pension accumulation fund monthly, or at such other intervals as may be agreed upon with the board of trustees, an amount equal to a certain percentage of the earnable compensation of each member, to be known as the "normal contribution," and an additional

amount equal to a percentage of his earnable compensation to be known as the "accrued liability contribution." The rate percentum of such contributions shall be fixed on the basis of the liabilities of the retirement system as shown by actuarial valuation. Until the first valuation the normal contribution for general employees shall be two and fourteen one hundredths percentum (2.14%) and the accrued liability contribution for general employees shall be one and seventy-eight one hundredths percentum (1.78%) of the payroll of the members who are general employees; and until the first valuation the normal contribution for firemen and policemen, including Sheriffs and other law enforcing officers, shall be three and eighty one hundredths percentum (3.80%), and the accrued liability contribution for firemen and policemen, including Sheriffs and other law enforcing officers, shall be three and nineteen one hundredths percentum (3.19%) of the payroll of the members who are firemen and policemen or other law enforcing officers.

Determination of "normal contribution rate."

(b) On the basis of regular interest and of such mortality and other tables as shall be adopted by the board of trustees, the actuary engaged by the board to make each valuation required by this Act during the period over which the accrued liability contribution is payable, immediately after making such valuation, shall determine the uniform and constant percentage of the earnable compensation of the average new entrant throughout his entire period of active service which would be sufficient to provide for the payment of any pension payable on his account and for the pro rata share of the cost of administration of the Retirement System. The rate percentum so determined shall be known as the "normal contribution" rate. After the accrued liability contribution has ceased to be payable, the normal contribution rate shall be the rate percentum of the earnable salary of all members obtained by deducting from the total liabilities of the pension accumulation fund the amount of the funds in hand to the credit of that fund and dividing the remainder by one percentum of the present value of the prospective future salaries of all members as computed on the basis of the mortality and service tables adopted by the board of trustees and regular interest. The normal rate of contribution shall be determined by the actuary after each valuation.

"Accrued liability contribution" rate.

(c) Immediately succeeding the first valuation the actuary engaged by the board of trustees shall compute the rate percentum of the total annual compensation of all members which is equivalent to four percentum of the amount of the total pension liability on account of all members and beneficiaries which is not dischargeable by the aforesaid normal contribution made on account of such members during the remainder of their active service. The rate percentum originally so determined shall be known as the "accrued liability contribution" rate.

Special accrued liability contributions by counties, cities and towns.

(d) The county, city or town participating in the system as provided in the last sentence of Section four of this Act shall make a special accrued liability contribution on account of its approval of the participation of its employees in the North Carolina Governmental Employees' Retirement System, which shall be determined by actuarial valuation of the accrued liability on account of the employees of such county, city or town who elected to become members in the same manner as the accrued liability rate was originally determined for employees who become members of the Governmental Employees' Retirement System prior to January first, nineteen hundred and forty-one. This special accrued liability contribution, subject to such adjustment as may be necessary on account of any additional prior service credits awarded to employees of such county, city or town, shall be payable in lieu of the accrued liability contribution payable on account of other employees in the system. The expense of making such initial valuation shall be assessed against and paid by the county, city or town on whose account it is necessary.

Amount of annual payments to pension accumulation fund.

(e) The total amount payable in each year to the pension accumulation fund shall not be less than the sum of the rate percentum known as the normal contribution rate and the accrued liability contribution rate of the total compensation earnable by all members during the preceding year: *Provided, however,* that the amount of each annual accrued liability contribution shall be at least three percentum greater than the preceding annual accrued liability payment, and that the aggregate payment by employers shall be sufficient, when combined with the amount in the fund, to provide the pensions and other benefits payable out of the fund during the year then current.

Discontinuance of accrued liability contributions.

(f) The accrued liability contribution shall be discontinued as soon as the accumulated reserve in the pension accumulation fund shall equal the present value, as actuarially computed and approved by the board of trustees, of the total liability of such fund less the present value, computed on the basis of the normal contribution rate then in force, of the prospective normal contributions to be received on account of all persons who are at that time members.

Payment of pensions from pension accumulation fund.

(g) All pensions, and benefits in lieu thereof, with the exception of those payable on account of members who received no prior service allowance, payable from contributions of employers, shall be paid from the pension accumulation fund.

(h) Upon the retirement of a member not entitled to credit for prior service, an amount equal to his pension reserve shall be transferred from the pension accumulation fund to the pension reserve fund.

Pension Reserve Fund.

(4) Pension Reserve Fund.

The pension reserve fund shall be the fund in which shall be

held the reserves of all pensions granted to members not entitled to credit for prior service and from which such pensions and benefits in lieu thereof shall be paid. Should such a beneficiary retired on account of disability be restored to active service with a compensation not less than his average final compensation at the time of his last retirement the pension thereon shall be transferred from the pension reserve fund to the pension accumulation fund. Should the pension of such disability beneficiary be reduced as a result of an increase in his earning capacity, the amount of the annual reduction in his pension shall be paid annually into the pension accumulation fund during the period of such reduction.

(5) Expense Fund.

Expense fund.

The expense fund shall be the fund from which the expenses of the administration of the Retirement System shall be paid, exclusive of amounts payable as retirement allowances and as other benefits provided herein. Contribution shall be made to the expense fund as follows:

(a) The board of trustees shall determine annually the amount required to defray such administrative expenses for the ensuing fiscal year and shall adopt a budget in accordance therewith. The budget estimate of such expenses shall be paid to the expense fund from the pension accumulation fund.

Payments to expense fund from pension accumulation fund.

(b) For the purpose of organizing the Retirement System and establishing an office, the board of trustees may provide as a prerequisite to participation in the Retirement System that each participating employer or employee or both shall pay an additional contribution to the Retirement System for the expense fund not to exceed two dollars for each employee, such contribution of the employee to be credited to his individual account in the annuity savings fund at such later time as the board of trustees shall determine, and/or the board of trustees may borrow such amounts as may be necessary to organize and establish the Retirement System.

Payment of additional contribution by employer or employee, for expense fund.

(6) Collection of Contributions.

Collection of members' contributions.

(1) The collection of members' contributions shall be as follows:

(a) Each employer shall cause to be deducted on each and every payroll of a member for each and every payroll subsequent to the date of participation in the Retirement System the contributions payable by such member as provided in this Act. Each employer shall certify to the treasurer of said employer on each and every payroll a statement as vouchers for the amount so deducted.

Deducted from payroll by employer.

(b) The treasurer of each employer on the authority from the employer shall make deductions from salaries of members as

Transmitted to secretary-treasurer of board of trustees.

provided in this Act and shall transmit monthly, or at such time as the board of trustees shall designate, the amount specified to be deducted, to the secretary-treasurer of the board of trustees. The secretary-treasurer of the board of trustees after making a record of all such receipt shall deposit them in a bank or banks selected by said board of trustees for use according to the provisions of this Act.

Collection of employers' contributions.

(2) The collections of employers' contributions shall be made as follows:

(a) Upon the basis of each actuarial valuation provided herein the board of trustees shall annually prepare and certify to each employer a statement of the total amount necessary for the ensuing fiscal year to the pension accumulation fund as provided under Subsection three of this section.

Exemptions from execution.

SEC. 11. *Exemptions from Execution.* The right of a person to a pension, an annuity, or a retirement allowance, to the return of contributions, the pension, annuity, or retirement allowance itself, any optional benefit or any other right accrued or accruing to any person under the provisions of this Act, and the monies in the various funds created by this Act, are hereby exempt from any state or municipal tax, and exempt from levy and sale, garnishment, attachment, or any other process whatsoever, and shall be unassignable except as in this Act specifically otherwise provided.

Protection against fraud.

SEC. 12. *Protection Against Fraud.* Any person who shall knowingly make any false statement or shall falsify or permit to be falsified any record or records of this Retirement System in any attempt to defraud such system as a result of such act shall be guilty of a misdemeanor, and on conviction thereof by any court of competent jurisdiction, shall be punished by a fine not exceeding five hundred dollars ($500.00), or imprisonment not exceeding twelve months, or both, such fine and imprisonment at the discretion of the court. Should any change or error in the records result in any member or beneficiary receiving from the Retirement System more or less than he would have been entitled to receive had their records been correct, the board of trustees shall correct such error, and as far as practicable, shall adjust the payment in such a manner that the actuarial equivalent of the benefit to which such member or beneficiary was correctly entitled shall be paid.

Limitation of membership.

SEC. 13. *Limitation of Membership.* No other provision of law in any other statute which provides wholly or partly at the expense of any county, city or town for pensions or retirement benefits for employees of the said county, city or town, their widows, or other dependents shall apply to members or beneficiaries of the Retirement System established by this Act.

Transfer of members.

SEC. 14. *Transfer of Members.* Any member of the North Carolina Governmental Employees' Retirement System who leaves

the service of his employer and enters the service of another employer participating in the North Carolina Governmental Employees' Retirement System shall maintain his status as a member of the Retirement System and shall be credited with all of the amounts previously credited to his account in any of the funds under this Act, but the new employer shall be responsible for any accrued liability contribution payable on account of any prior service credit which such employee may have at the time of his transfer, and such employee shall be given such status and be credited with such service with the new employer as allowed with the former employer.

Guaranty.

SEC. 15. *Guaranty.* The maintenance of annuity reserves and pension reserves as provided for, and regular interest creditable to the various funds as provided in Section ten of this Act, and the payment of all pensions, annuities, retirement allowances, refunds and other benefits granted under the provisions of this Act, are hereby made obligations of the pension accumulation fund. All income, interest and dividends derived from deposits and investments authorized by this Act shall be used for the payment of the said obligations of the said fund.

Partial invalidity clause.

SEC. 16. If any section or part of any section of this Act is declared to be unconstitutional the remainder of this Act shall not thereby be invalidated. All provisions of the law inconsistent with the provisions of this Act are hereby repealed to the extent of such inconsistency: *Provided,* that nothing in this Act shall have the effect of repealing any Public-Local or Private Act creating or authorizing the creation of any officers' or employees' Retirement System in any county, city, or town or prohibiting the enactment of any Public-Local or Private Act creating or authorizing the creation of any officers' or employees' Retirement System in any county, city, or town. No payment on account of any benefit granted under the provisions of Section seven, Subsection one to four inclusive, shall become effective or begin to accrue until the end of one year following the date the system is established nor shall any compulsory retirement be made during that period.

Local laws unaffected.

City of High Point exempt.

SEC. 17. That none of the provisions of this Act shall apply to the City of High Point.

Election required for tax levy or pledge of credit.

SEC. 18. *Provided, however,* that no county, city, town, or other municipality, shall levy any tax, pledge its faith, or incur any indebtedness for the purposes herein mentioned until the same shall have been submitted to, and approved by, the qualified voters thereof at an election to be called by the governing body of such county, city, town, or other municipality.

SEC. 19. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

S. B. 501 CHAPTER 391

AN ACT TO AMEND CHAPTER THREE HUNDRED TWENTY-THREE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN SO AS TO EXTEND THE TIME WITHIN WHICH THE UNIVERSITY OF NORTH CAROLINA MAY ACCEPT GRANTS.

The General Assembly of North Carolina do enact:

Ch. 323, Public Laws, 1937, amended to extend time of issuance of public works bonds.

SECTION 1. That Section one of Chapter three hundred twenty-three of the Public Laws of one thousand nine hundred thirty-seven be and the same is hereby amended by striking out in line five of said section the words "thirty-nine", and inserting in lieu thereof the words "forty-one".

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

S. B. 502 CHAPTER 392

AN ACT RELATING TO THE BOARD OF EDUCATION OF CABARRUS COUNTY.

The General Assembly of North Carolina do enact:

Board of Education, Cabarrus County.

SECTION 1. That the Board of Education of Cabarrus County shall consist of R. L. Hartsell and Harry E. Cline, each appointed for a period of six years by Chapter two hundred ninety-six of the Public Laws of one thousand nine hundred thirty-five; G. G. Allen and Allen H. Harris, each appointed for a period of six years by House Bill Number one thousand twenty-four, ratified on the first day of April, one thousand nine hundred thirty-nine; and A. G. Odell, appointed for a period of four years by House Bill Number one thousand twenty-four, ratified on the first day of April, one thousand nine hundred thirty-nine. That the members of the Board of Education herein named, and their successors in office, shall exercise all the powers and perform all the duties of the Board of Education for said county.

Powers and duties.

SEC. 2. That Chapter two hundred ninety-six of the Public Laws of one thousand nine hundred thirty-five, in so far as it affects the Board of Education of Cabarrus County, is hereby repealed as to those persons not named in Section one of this Act.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after the first day of April, one thousand nine hundred thirty-nine.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

S. B. 504 **CHAPTER 393**

AN ACT TO AMEND HOUSE BILL NINE HUNDRED TWENTY-TWO RELATIVE TO THE APPOINTMENT OF JUSTICES OF THE PEACE FOR SEVERAL COUNTIES OF THE STATE OF NORTH CAROLINA.

The General Assembly of North Carolina do enact:

H. B. 922, Ch. 362, Public Laws, 1939, amended as to appointment of Justices of Peace, Cherokee County.

SECTION 1. That the name D. B. Wright appearing in the list of names for Justices of the Peace of Cherokee County, North Carolina, be and the same is hereby stricken out.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

S. B. 392 **CHAPTER 394**

AN ACT TO PROVIDE FOR THE REGULATION OF AUTOMOBILE BODILY INJURY, PROPERTY DAMAGE AND COLLISION INSURANCE RATES.

The General Assembly of North Carolina do enact:

North Carolina Automobile Rate Administrative Office created.

SECTION 1. There is hereby created a Bureau to be known as the North Carolina Automobile Rate Administrative Office which office shall be established in the Compensation Rating and Inspection Bureau of North Carolina, created under Chapter two hundred seventy-nine, Public Laws one thousand nine hundred thirty-one, and shall be a branch and under the management of the General Manager of the Compensation Rating and Inspection Bureau of North Carolina, with the following objects, functions and sources of income:

Supervision by General Manager of Compensation Rating and Inspection Bureau.

Rules and regulations, maximum premium rates, etc.

(a) To maintain rules and regulations and fix maximum rates for automobile bodily injury, property damage and collision insurance and equitably adjust the same as far ar practic-

able in accordance with the hazard of the different classes of risks as established by said bureau.

Information as to rating, method of capitulation, etc.

(b) To furnish upon request of any person carrying this form of insurance in the State or to any member of the North Carolina Automobile Rate Administrative Office, upon whose risk a rate has been promulgated, information as to the rating, including the method of its capitulation, and to encourage safety on the highways and streets of the State, by offering reduced premium rates under a uniform system of experience rating as may be approved by the Insurance Commissioner.

Membership, as a prerequisite for writing such insurance in State.

Sec. 2. Before the Insurance Commissioner shall grant permission to any stock, nonstock, or reciprocal insurance company or any other insurance organization to write automobile bodily injury, property damage and collision insurance in this State, it shall be a requisite that they shall subscribe to and become members of the North Carolina Automobile Rate Administrative Office.

Representation, and right to vote in administration in affairs of bureau.

(a) Each member of the North Carolina Automobile Rate Administrative Office writing the above classes of insurance in North Carolina shall, as a requisite thereto, be represented in the aforesaid bureau and shall be entitled to one representative and one vote in the administration of the affairs of the bureau. They shall, upon organization, elect a governing committee which governing committee shall be composed of equal representation by stock and nonstock members.

Quarterly contributions for administrative expense.

(b) The bureau, when created, shall adopt such rules and regulations for its orderly procedure, as shall be necessary for its maintenance and operation. The expense of such bureau shall be borne by its members by quarterly contributions to be made in advance, such contributions to be made in advance by prorating such expense among the members in accordance with the amount of gross premiums derived from automobile bodily injury, property damage and collision insurance in North Carolina during the preceding year ending December thirty-frst, one thousand nine hundred thirty-eight, and members entering such bureau since that date to advance an amount to be fixed by the governing committee. After the first fiscal year of operation of the bureau the necessary expense of the bureau shall be advanced by the members in accordance with rules and regulations to be established and adopted by the governing committee.

Payment after first year of operation.

Insurance Commissioner, ex-officio chairman.

(c) The Insurance Commissioner of the State of North Carolina, or such deputy as he may appoint, shall be ex-officio chairman of the North Carolina Automobile Rate Administrative Office and shall preside over all meetings of the governing committee or other meetings of the bureau and it shall be his duty to determine any controversy that may arise by reason of a tie vote between the members of the governing committee.

SEC. 3. In order to carry into effect the objects of this Act the bureau members shall immediately elect its governing committee who shall employ and fix the salaries of such personnel and assistants as is necessary, but the general manager of the Compensation Rating and Inspection Bureau of North Carolina shall be the general manager also of the North Carolina Automobile Rate Administrative Office and the Insurance Commissioner is hereby authorized to compel the production of all books, data, papers and records and any other data necessary to compile statistics for the purpose of determining the pure cost and expense loading of automobile bodily injury, property damage and collision insurance in North Carolina and this information shall be available and for the use of the North Carolina Automobile Rate Administrative Office for the capitulation and promulgation of rates on automobile bodily injury, property damage and collision insurance. All such rates compiled and promulgated by such bureau shall be submitted to the Insurance Commissioner for approval and no such rates shall be put into effect in this State until approved by the Insurance Commissioner and not subsequently disapproved: *Provided* this Act shall not apply to public owned vehicles.

Governing committee.

General manager.

Authority of Insurance Commissioner to compel production of books, data, etc.

Promulgation and approval of rates.

Exemptions.

SEC. 4. This Act shall become effective as soon after ratification as practicable but not later than the first day of June, one thousand nine hundred thirty-nine.

Effective date.

SEC. 5. All laws and clauses of laws in conflict with this Act are hereby repealed.

Conflicting laws repealed.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 474 CHAPTER 395

AN ACT TO AMEND CHAPTER TWO HUNDRED EIGHTY-EIGHT OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-SEVEN KNOWN AS THE "OLD AGE ASSISTANCE ACT AND THE AID TO DEPENDENT CHILDREN ACT", AND SECTION CONSOLIDATED STATUTES FIVE THOUSAND AND FOURTEEN PUBLIC LAWS RELATING TO PUBLIC WELFARE.

The General Assembly of North Carolina do enact:

SECTION 1. That Chapter two hundred eighty-eight of the Public Laws of one thousand nine hundred thirty-seven be amended as follows:

Ch. 288, Public Laws, 1937, Old Age Assistance and Aid to Dependent Children Act, amended.

(a) By adding at the end of Section four thereof the following: " 'Social Security Board' shall be interpreted to include any agency or agencies of the Federal Government which may be substituted therefor by law."

"Social Security Board" defined, within meaning of Title I.

"Social Security Board" defined, within meaning of Title II.

(b) By adding at the end of Section thirty-two thereof the following: "'Social Security Board' shall be interpreted to include any agency or agencies of the Federal Government which may be substituted therefor by law."

Sec. 6 (b), amended, as to citizenship requirements for old age assistance.

(c) By amending Section (b) of Section six to read as follows: "(b) Is a citizen of the United States or has been residing in the United States for a period of ten years and has legally declared his intention to become a citizen."

Sec. 6 (f), amended as to residence requirements for old age assistance.

(d) By striking out that part of Section (f) of Section six thereof which reads as follows: "Has been a resident of this State for five out of the nine years preceding his application and for one year immediately preceding the same," and by substituting therefor the following: "Has been a resident of this State for two out of the five years preceding his application and for one year immediately preceding the same."

Sec. 35, as to eligibility of dependent child for aid, amended.

(e) By striking out the period at the end of Section thirty-five thereof and substituting therefor a comma, and adding the following: "but this provision shall in no wise affect the eligibility of a dependent child, or children, for Aid to Dependent Children, or the right of the county board of welfare to make awards therefor."

Sec. 15 and 45, as to applications, amended to omit verification requirements.

(f) By striking out in the first paragraph of Section fifteen thereof, the words "and shall be verified by the oath of the applicant" and the comma preceding said words.

(g) By striking out in the first paragraph of Section forty-five thereof, the words "and shall be verified by the oath of the applicant" and the comma preceding said words.

Sec. 15, further amended as to public inspection of awards and applications.

(h) By striking out the last sentence in Section fifteen thereof and substituting in lieu thereof the following: "All awards and applications on which they are based shall, at the convenience and in the discretion of the county board of welfare, be open to public inspection, and the State board shall establish and enforce reasonable rules and regulations governing the custody, use, preservation of records, papers, files and communications in the office of the county board of welfare."

Preservation of records, etc.

Sec. 13, amended.

(i) By adding at the end of Section thirteen thereof another subsection, as follows:

Reciprocal agreements, etc. of State Welfare Board as to old age assistance.

"(h) Enter into reciprocal agreements with public welfare agencies in other States relative to providing for assistance and services to residents, non-residents or transients, and cooperate with other agencies of the State and Federal governments in providing such assistance and services and in the study of the problems involved."

"(i) That the North Carolina State Board of Charities and Public Welfare is hereby authorized and empowered to receive

grants in aid from the Federal Government or any State or Federal agency for general relief or for any other relief purposes; and all such grants so made and received shall be paid to the State Treasurer and credited to the account of the North Carolina State Board of Charities and Public Welfare, to be used in carrying out the provisions of this Act."

State Welfare Board authorized to receive grants in aid for administration of Old Age Assistance Act.

(j) By striking out in the first sentence of the third paragraph of Section eighteen thereof the words "thirty days" and substituting in lieu thereof the words "a reasonable time."

Sec. 18, amended as to appeals to State Board of Allotment and Appeals.

(k) By striking out part of the last sentence in Section twenty-two, which part so stricken out reads as follows: "according to the manner and procedure authorized for disbursement of county funds, but only to persons whose eligibility or right to receive the same has been finally approved", and substituting in lieu thereof the following: "On warrants drawn on the county treasurer or other designated county officials where there is no county treasurer, signed by the secretary of the county welfare board, countersigned by the county auditor and chairman of the welfare board, for both payments of grants to recipients and for administrative purposes."

Sec. 22, amended, as to disbursement of old age assistance fund.

(l) By striking out part of the last sentence in Section fifty-two, which part so stricken out reads as follows: "according to the manner and procedure authorized for disbursement of county funds, but only to persons whose eligibility or right to receive the same has been approved", and substituting in lieu thereof the following: "On warrants drawn on the county treasurer or other designated county officials where there is no county treasurer, signed by the secretary of the county welfare board, countersigned by the county auditor and chairman of the welfare board, for both payments of grants to recipients and for administrative purposes."

Sec. 52, amended, as to disbursement of funds for aid to dependent children.

(m) By adding at the end of Section forty-three thereof another subsection, as follows:

Sec. 43, amended.

"(h) Enter into reciprocal agreements with public welfare agencies in other States relative to providing for assistance and services to residents, non-residents or transients, and cooperate with other agencies of the State and Federal governments in providing such assistance and services and in the study of the problems involved."

Reciprocal agreements, etc. of State Welfare Board as to aid to dependent children.

(n) By adding at the end of Section forty-three thereof another subsection, as follows:

Sec. 43, further amended.

"(i) That the North Carolina State Board of Charities and Public Welfare is hereby authorized and empowered to receive grants in aid from the Federal Government or any State or Federal agency for general relief or for any other relief purposes; and all such grants so made and received shall be paid to the

State Welfare Board authorized to receive grants in aid for administration of Aid to Dependent Children Act.

State Treasurer and credited to the account of the North Carolina State Board of Charities and Public Welfare, to be used in carrying out the provisions of this Act."

Sec. 23, amended as to number and compensation of employees of county boards of welfare.

(o) At the end of Section twenty-three add a new paragraph to read as follows: "The county board of commissioners and the county board of welfare, in joint session, shall determine the number and salary of employees of the county board of welfare, having been advised by the county superintendent of welfare and the State Board of Charities and Public Welfare.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 657 CHAPTER 396

AN ACT TO AMEND SECTION FOUR THOUSAND ONE HUNDRED ELEVEN, CONSOLIDATED STATUTES OF ONE THOUSAND NINE HUNDRED NINETEEN, RELATING TO AN ALLOWANCE TO INFANT ORPHANS FROM THE ESTATE OF A DECEASED PARENT.

The General Assembly of North Carolina do enact:

C. S., 1919, section 4111, amended.

SECTION 1. That Section four thousand one hundred eleven, Consolidated Statutes of one thousand nine hundred nineteen, be, and the same is hereby, amended and rewritten so that it shall hereafter read as follows:

Year's allowance to children under fifteen years of age.

Exempt from lien or execution.

Assignment of allowance.

Payment to surviving parent for benefit of child.

"4111. When children entitled to an allowance. Whenever any parent dies leaving any child or adopted child under the age of fifteen years, every such child shall be entitled, besides its distributive share of the personal estate of such deceased parent, to an allowance of one hundred fifty dollars ($150.00) for its support for the year next ensuing the death of such parent, and such allowance shall be exempt from any lien, by judgment or execution against the property of such parent; the personal representative of the deceased parent shall assign to every such child the allowance herein provided for, but if there be no personal representative it shall be assigned by a Justice of the Peace, upon application of the guardian or next friend of the child entitled: *Provided*, if such child resides with the widow of the deceased parent at the time such allowance is paid, such allowance shall be paid to such widow for the benefit of such child, in lieu of the allowance heretofore made such widow on account of such child,

under the provisions of Section four thousand one hundred and nine, Consolidated Statutes of one thousand nine hundred nineteen: *Provided, further,* that if such child resides with its surviving parent who is other than the widow of the deceased parent, such allowance shall be paid to such surviving parent for the use and benefit of such child: *Provided, further,* such allowance shall not be available to an illegitimate child of a deceased father, unless such deceased father shall have recognized the paternity of such illegitimate child by deed, will or other paper writing: *Provided, further,* if such child does not reside with a parent when such allowance is paid, it shall be paid to its general guardian if any, and if none, to the Clerk of the Superior Court who shall receive and disburse same for the benefit of such child: *Provided, further,* this Act shall not deprive any widow of any allowance due her under the provisions of Chapter eighty, Consolidated Statutes of one thousand nine hundred nineteen, prior to the ratification of this Act."

Illegitimate children.

Payment to guardian or Clerk of Superior Court.

Construction of Act.

SEC. 2. That all laws and clauses of laws in conflict herewith are, to the extent of such conflict, hereby repealed.

Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 726 CHAPTER 397

AN ACT TO AMEND SECTION TWO THOUSAND FIVE HUNDRED NINETY-ONE OF THE CONSOLIDATED STATUTES, RELATING TO THE REOPENING OF JUDICIAL AND OTHER SALES ON ADVANCED BIDS.

The General Assembly of North Carolina do enact:

SECTION 1. That Section two thousand five hundred ninety-one of the Consolidated Statutes of North Carolina, as amended, be further amended by adding thereto immediately after the words "require him to make title to the purchase" in line twenty of said section, the following:

C. S. 2591, amended.

"If upon any resale the person making an advance bid or his agent shall become the last and highest bidder at such resale and upon confirmation of his bid shall fail to comply therewith within ten days, the clerk shall order a resale of the property; and in such event the deposit made with the clerk of said court shall be forfeited as damages for failure to comply with the bid at such resale and shall be applied, under order of the clerk, first to the payment of all costs and expenses in advertising and conducting the resale, and the balance of said deposit, if any, shall

Order of resale upon failure of person making advance bid to comply.

Forfeiture of deposit.

Application to costs and indebtedness.

be applied as a credit on the indebtedness on account of which the sale was authorized:" *Provided, however,* that no such forfeiture shall be allowed if, at the resale ordered because of such failure to comply, the property shall sell for an amount equal to or more than said advance bid so offered but not complied with, plus the costs of such resale.

Exception.

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict herewith are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 1026 CHAPTER 398

AN ACT TO AMEND CHAPTER THREE HUNDRED TWELVE OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED THIRTY-ONE RELATING TO THE ESTABLISHMENT OF THE DEPARTMENT OF LABOR.

The General Assembly of North Carolina do enact:

Ch. 312, Public Laws, 1931, providing for establishment of Department of Labor, amended.

SECTION 1. That Chapter three hundred twelve of the Public Laws of one thousand nine hundred thirty-one be, and the same is hereby amended, by inserting a new section to be designated as Section thirteen (a), as follows:

Prosecution of violations of rules and regulations prescribed by Dept. of Labor Act, authorized.

"SEC. 13 (a). In the event any person, firm or corporation shall, after notice by the Commissioner of Labor, violate any of the rules or regulations promulgated under the authority of this Act or any laws amendatory hereof relating to safety devices, or measures, the Attorney General of the State, upon the request of the Commissioner of Labor, may take appropriate action in the civil courts of the State to enforce such rules and regulations. Upon request of the Attorney General, any solicitor of the State of North Carolina in whose district such rule or regulation is violated may perform the duties hereinabove required of the Attorney General."

SEC. 2. This Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 1033 CHAPTER 399

AN ACT TO AUTHORIZE THE TRUSTEES OF THE UNIVERSITY TO CONSTRUCT AND FINANCE AN ATHLETIC STADIUM FOR NORTH CAROLINA STATE COLLEGE OUT OF FUNDS OTHER THAN GENERAL REVENUES OF THE STATE.

The General Assembly of North Carolina do enact:

SECTION 1. That for the purpose of enlarging and improving the athletic stadium facilities on the grounds of North Carolina State College of Agriculture and Engineering, the Trustees of the University of North Carolina are empowered and authorized to borrow from Alumni of the institution, or other persons, a sum of money not to exceed thirty thousand dollars ($30,000.00): *Provided,* that no part of the payments for the principal or interest charges on said loan shall be made out of the general revenue of the State of North Carolina, nor out of any of the general receipts other than Athletic Receipts of the College: *Provided, further,* that the credit of the State of North Carolina shall not be pledged either directly or indirectly to the payment of said principal or interest charges.

Trustees of University of N. C. authorized to borrow funds to improve, etc. athletic stadium at State College.

Payment from athletic receipts of college.

Credit of State not pledged.

SEC. 2. That for the further purposes of constructing, operating, and financing said athletic stadium facilities, the Trustees of the University may authorize and approve or enter into such agreements, contracts, leases by and between the North Carolina State College, its administrative officers or boards, and other parties as the trustees deem advisable, and may pledge, appropriate, and pay such sums out of the athletic receipts of North Carolina State College as may be required to secure, repay, or meet the interest charges on the loan herein authorizd.

Authority of trustees in connection with constructing, etc. athletic stadium facilities.

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

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 1085 CHAPTER 400

AN ACT TO AMEND CHAPTER ONE HUNDRED FIFTEEN OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED FIFTEEN, AS AMENDED, RELATING TO THE INCORPORATION, MAINTENANCE AND SUPERVISION OF CREDIT UNIONS AND CO-OPERATIVE ASSOCIATIONS.

The General Assembly of North Carolina do enact:

SECTION 1. That Subsection C of Section eighteen of Chapter one hundred fifteen of the Public Laws of one thousand nine hun-

Sec. 18 (c), Ch. 115, Public Laws, 1915, amended.

dred fifteen, as amended, the same being paragraph three, Section five thousand two hundred nineteen, Article nine, Sub-chapter three of the Consolidated Statutes, be and the same is hereby further amended by striking out said Subsection three in its entirety and substituting in lieu thereof the following: Subsection C: A credit union shall keep on deposit at interest in any of such depositories as are enumerated in the next preceding paragraph so much of the reserve fund and capital stock as shall equal five (5) per cent of the total liabilities.

Reserve fund of credit unions, and authorized depositories.

Sec. 21, amended as to investment capital stock and reserve fund.

SEC. 2. That Section twenty-one of Chapter one hundred fifteen of the Public Laws of one thousand nine hundred fifteen be and the same is hereby amended by striking out the words "twenty-five" in line six, and inserting in lieu thereof the word "twenty".

Sec. 15, amended to authorize savings to be applied on obligations.

SEC. 3. That Section fifteen of Chapter one hundred fifteen of the Public Laws of one thousand nine hundred fifteen be and the same is hereby amended by striking out the word "shares" in line two and inserting in lieu thereof the word "obligations".

SEC. 4. That this Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 1111 CHAPTER 401

AN ACT TO VALIDATE AND CONFIRM STATE GRANTS NUMBERS THIRTEEN THOUSAND EIGHT HUNDRED AND THREE, THIRTEEN THOUSAND NINE HUNDRED AND FORTY-FOUR, THIRTEEN THOUSAND NINE HUNDRED AND FORTY-FIVE, THIRTEEN THOUSAND NINE HUNDRED AND SIXTY-SEVEN AND THIRTEEN THOUSAND NINE HUNDRED AND SIXTY-EIGHT ISSUED TO CHISHOLM T. ROGERS IN ONE THOUSAND EIGHT HUNDRED AND NINETY-NINE.

The General Assembly of North Carolina do enact:

Certain enumerated State grants issued to Chisholm T. Rogers in Bladen County, validated.

SECTION 1. That Grant Number thirteen thousand eight hundred and three issued February seventeenth, one thousand eight hundred and ninety-nine, to Chisholm T. Rogers and recorded September first, one thousand eight hundred and ninety-nine, in the office of the Register of Deeds of Bladen County in Book 39, at Page 341; Grant Number thirteen thousand nine hundred and forty-four issued September twenty-nine, one thousand eight hundred and ninety-nine to Chisholm T. Rogers and recorded October twenty-eighth, one thousand eight hundred and ninety-nine, in the said Register's office in Book 39, at Page 443; Grant

Number thirteen thousand nine hundred and forty-five issued September twenty-nine, one thousand eight hundred and ninety-nine, to Chisholm T. Rogers and recorded October twenty-eight, one thousand eight hundred and ninety-nine, in the said Register's office in Book 39, at Page 441; Grant Number thirteen thousand nine hundred and sixty-seven issued November eleventh, one thousand eight hundred and ninety-nine, to Chisholm T. Rogers and recorded December thirteenth, one thousand eight hundred and ninety-nine, in the said Register's office in Book 39, at Page 493; and Grant Number thirteen thousand nine hundred and sixty-eight issued November eleventh, one thousand eight hundred and ninety-nine, to Chisholm T. Rogers and recorded in the said Register's office in Book 39, at Page 496 covering property in Bladen County, North Carolina, known as the Tussocky Bay property and entered by the said Chisholm T. Rogers on January twenty-first, one thousand eight hundred and ninety-nine, be and the same are hereby in all respects validated and confirmed.

SEC. 1½. Nothing contained in this Act shall apply to or in any wise effect an impending litigation.

SEC. 2 This Act shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 1183 CHAPTER 402

AN ACT TO REPEAL ALL LAWS IN CONFLICT WITH COMMITTEE SUBSTITUTE FOR HOUSE BILL ONE HUNDRED AND SEVEN.

Preamble: Enactment of Committee Substitute for H. B. 107.

WHEREAS, the Committee Substitute for House Bill one hundred and seven has been enacted into law; and

Absence of general repealing clause.

WHEREAS, the said Act contains no general repealing clause; and

WHEREAS, a general state-wide election law is desirable: *Now, therefore,*

The General Assembly of North Carolina do enact:

All Public and Local Laws applicable to Wilson or Cumberland Counties in conflict with Ch. 352, Public Laws, 1939, repealed.

SECTION 1. That all Public and Local Laws and clauses of laws applicable to the Counties of Wilson or Cumberland in conflict with the provisions of the Committee Substitute for House Bill one hundred and seven, the same being entitled, "A bill to be entitled an Act to repeal Sections six thousand fifty-five (a26) and six thousand fifty-five (a27) of the Consolidated Statutes relating to markers and assistance to voters in elections

and primaries and providing for assistance to handicapped voters", adopted by the General Assembly of one thousand nine hundred and thirty-nine, general session, be, and the same are hereby repealed.

SEC. 2. That this Act shall apply only to Cumberland and Wilson Counties.

Conflicting laws repealed.

SEC. 3. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 4. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 1185 CHAPTER 403

AN ACT TO AMEND COMMITTEE SUBSTITUTE FOR HOUSE BILL NUMBER FOURTEEN, THE BUDGET APPROPRIATION BILL FOR THE BIENNIUM ONE THOUSAND NINE HUNDRED THIRTY-NINE—ONE THOUSAND NINE HUNDRED FORTY-ONE, WITH RESPECT TO TIME OF PAYMET OF CONFEDERATE PENSIONS.

The General Assembly of North Carolina do enact:

H. B. 14, Ch. 185, Public Laws, 1939, Appropriations Act, amended to conform with H. B. 81, Ch. 187, Public Laws, 1939, as to payment of Confederate Pensions.

SECTION 1. That Section fourteen of Committee Substitute for House Bill Number Fourteen, The Budget Appropriation Bill for the biennium one thousand nine hundred thirty-nine—one thousand nine hundred forty-one, be amended so as to conform to the provisions of House Bill Number eighty-one, entitled "An Act to Amend Consolidated Statutes five thousand one hundred sixty-eight (Q), Volume three (one thousand nine hundred twenty-four), and to repeal Consolidated Statutes five thousand one hundred sixty-eight (S) and five thousand one hundred sixty-eight (T), relative to the payment of Confederate Pensions".

Conflicting laws repealed.

SEC. 2. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

S. B. 432 **CHAPTER 404**

AN ACT TO FIX THE SALARY OF THE UTILITIES COMMISSIONER.

The General Assembly of North Carolina do enact:

SECTION 1. That the Utilities Commissioner shall receive a salary of sixty-six hundred dollars ($6600.00) per annum. Compensation of Utilities Commissioner.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed. Conflicting laws repealed.

SEC. 3. That this Act shall be in full force and effect from and after the first day of July, one thousand nine hundred thirty-nine.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 173 **CHAPTER 405**

AN ACT TO PROHIBIT THE SALE OF BEER OR OTHER ALCOHOLIC BEVERAGES WITHIN WATAUGA COUNTY.

The General Assembly of North Carolina do enact:

SECTION 1. That Sections one, two, three and four, be, and the same are hereby stricken out and the following inserted in lieu thereof:

"SECTION 1. That Chapter..... of the Public Laws of one thousand nine hundred thirty-nine, being the Committee Substitute for House Bill thirteen, known as the Budget Revenue Bill of one thousand nine hundred thirty-nine, be amended by adding at the end of Section five hundred thirteen therein of Schedule "F", Article VI, the following: *And provided further*, that such governing bodies in the Counties of Watauga, Ashe, Jackson, Haywood, Duplin, Alexander, Robeson, McDowell, Yadkin, Wilkes, Sampson, Greene, Montgomery, Transylvania, Randolph, Chatham, Alamance, Clay, Madison, Pender, Avery, Nash, Granville and the Town of Aulander, or any municipality therein shall be authorized in their discretion to decline to issue the "on premises" licenses provided for in Subsection one of Section five hundred nine and one half". H. B. 13, Ch. 158, Public Laws, 1939, Revenue Act, amended, to authorize governing bodies of designated local units to decline issuance of beverage licenses.

SEC. 2. That the governing bodies in the Counties of Watauga, Ashe, Jackson, Haywood, Duplin, Alexander, Robeson, McDowell, Yadkin, Wilkes, Sampson, Greene, Montgomery, Transylvania, Randolph, Chatham, Alamance, Clay, Madison, Pender, Avery, Nash, Granville and the Town of Aulander, of municipalities Governing bodies of designated counties, or municipalities therein authorized to prohibit Sunday sales of beer and wine.

therein, shall be authorized to prohibit the sale of beer and/or wine between the hours of 12:01 A. M. on Sundays and midnight Sunday night.

SEC. 3. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. B. 1167 CHAPTER 406

AN ACT TO AMEND CHAPTER ONE HUNDRED SEVENTY-FOUR OF THE PUBLIC LAWS OF ONE THOUSAND NINE HUNDRED TWENTY-ONE, BEING AN ACT TO REGULATE DEDICATION OF STREETS, HIGHWAYS, ETC., AND TO LIMIT THE TIME WITHIN WHICH SUCH DEDICATION SHALL BE ACCEPTED BY THE PUBLIC, ETC.

The General Assembly of North Carolina do enact:

Ch. 174, Public Laws, 1921, amended.

SECTION 1. That Chapter one hundred seventy-four of the Public Laws of one thousand nine hundred twenty-one, being an Act to regulate the dedication of streets, highways, etc., and to limit the time within which such dedication shall be accepted by the public, shall be amended by adding the following proviso at the end of Section one:

Interest, etc. of corporation not in existence in property dedicated for public use, declared divested.

"*Provided further*, that where any corporation has dedicated any strip, piece, or parcel of land in the manner herein set out, and said dedicating corporation is not now in existence, it shall be conclusively presumed that the said corporation has no further right, title, or interest in said strip, piece, or parcel of land, regardless of the provisions of conveyances from said corporation, or those holding under said corporation, retaining title and interest to said strip, piece, or parcel of land so dedicated; the right, title and interest in said strip, piece, or parcel of land shall be conclusively presumed to be vested in those persons, firms, or corporations owning lots or parcels of land adjacent thereto, subject to the provisions set out hereinbefore in this section: *Provided further*, that nothing in this Act shall apply to pending litigation."

Title vested in adjacent landowner.

Pending litigation unaffected.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

RESOLUTIONS

GENERAL ASSEMBLY

EXTRA SESSION, 1938

H. R. 1 **RESOLUTION 1**

JOINT RESOLUTION INFORMING HIS EXCELLENCY, GOVERNOR CLYDE R. HOEY, THAT THE EXTRA SESSION OF THE GENERAL ASSEMBLY IS READY TO PROCEED WITH PUBLIC BUSINESS.

Resolved by the House of Representatives, the Senate concurring:

SECTION 1. That a Committee of two on the part of the Senate and three on the part of the House of Representatives be appointed to notify his Excellency, the Governor, that the Extra Session of the General Assembly of one thousand nine hundred and thirty-eight is now ready to proceed with public business and invites him to deliver any message, in person, that he may have at the hour of twelve-thirty today or as near this hour as is convenient to him.

Governor notified of organization of General Assembly.

In the General Assembly read three times and ratified, this the 13th day of August, 1938.

H. R. 7 **RESOLUTION 2**

JOINT RESOLUTION RELATIVE TO THE PRINTING OF THE ACTS AND RECORDS OF THE SPECIAL SESSION OF ONE THOUSAND NINE HUNDRED AND THIRTY-EIGHT.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. That the Public Laws and any Public-Local and Private Laws, Resolutions and Journals of the House and Senate enacted or adopted at the Special Session of One Thousand Nine Hundred and Thirty-Eight of the General Assembly of North Carolina, shall be printed and published in the printing and publication of similar laws and records for the Regular Session of the General Assembly for One Thousand Nine Hundred and Thirty-Nine.

Publications for regular session of 1939 to include extra session of 1938.

SEC. 2. This Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 13th day of August, 1938.

H. R. 10 RESOLUTION 3

JOINT RESOLUTION BY THE GENERAL ASSEMBLY OF NORTH CAROLINA PROVIDING FOR ADJOURNMENT OF THE EXTRA SESSION OF NINETEEN HUNDRED THIRTY-EIGHT ON AUGUST THIRTEENTH, ONE THOUSAND NINE HUNDRED THIRTY-EIGHT.

Resolved by the House of Representatives, the Senate concurring:

SECTION 1. That both the House of Representatives and the Senate, constituting the General Assembly, in its Extra Session of Nineteen Hundred and Thirty-Eight, do adjourn *sine die* on Saturday, August Thirteenth, One Thousand Nine Hundred and Thirty-Eight, at one o'clock A. M.

Time of adjournment sine die.

SEC. 2. That this resolution shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 13th day of August, 1938.

S. R. 12 RESOLUTION 4

A JOINT RESOLUTION COMMENDING THE GOVERNOR AND THE COUNCIL OF STATE UPON THE WISDOM SHOWN IN CALLING EXTRA SESSION OF GENERAL ASSEMBLY OF ONE THOUSAND NINE HUNDRED THIRTY-EIGHT.

Preamble: Administration and leadership of Governor Hoey commended.

WHEREAS, Governor Clyde R. Hoey, as Chief Executive of this State, has by wise, courageous and democratic leadership since the beginning of his Administration, carried on the affairs of State in a manner highly pleasing to all of the people of the State, bringing on an era of good feeling, dissipating all dissension in the Democratic Party, commanding the admiration of members of all political parties of the State; and

Extra session called by Governor Hoey.

WHEREAS, a demonstration of this leadership was exhibited in the calling of the Extra Session of the General Assembly of one thousand nine hundred and thirty-eight for the purposes stated in the Message of the Governor to the General Assembly; *Now, therefore:*

Be it Resolved by the Senate, the House of Representatives concurring:

Governor and Council of State commended.

SECTION 1. That we commend the Governor and Council of State upon the wisdom displayed in calling the Extra Session of the General Assembly of one thousand nine hundred and thirty-eight for consideration and enactment of laws recommended by His Excellency in his Message to the joint session of the Legislature.

In the General Assembly read three times and ratified, this the 13th day of August, 1938.

RESOLUTIONS

GENERAL ASSEMBLY

REGULAR SESSION, 1939

S. R. 1 **RESOLUTION 1**

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, THE GOVERNOR, THAT THE GENERAL ASSEMBLY IS READY TO PROCEED WITH PUBLIC BUSINESS.

Resolved by the Senate, the House of Representatives concurring:

Senate resolution notifying Governor of organization of General Assembly.

SECTION 1. That a Committee of two on the part of the Senate and three on the part of the House of Representatives be appointed to notify His Excellency, the Governor, that the General Assembly is organized and now ready to proceed with public business, and invite him to deliver any messages that he may have, in person or in writing, and suggest the hour of twelve o'clock noon, Thursday, January fifth.

SEC. 2. That this Resolution shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 18th day of January, 1939.

S. R. 2 **RESOLUTION 2**

JOINT RESOLUTION TO AUTHORIZE AND PROVIDE FOR THE PRINTING OF THE GOVERNOR'S MESSAGE TO THE GENERAL ASSEMBLY.

Resolved by the Senate, the House of Representatives concurring:

Governor's message ordered printed.

SECTION 1. That three thousand copies of the message of His Excellency, Clyde R. Hoey, Governor of North Carolina, to this General Assembly be forthwith printed and delivered at the Governor's office for such distribution of the same as he may desire to make.

SEC. 2. That this Resolution be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 18th day of January, 1939.

S. R. 7 RESOLUTION 3

A JOINT RESOLUTION INVITING THE HONORABLE A. B. (HAPPY) CHANDLER, GOVERNOR OF THE STATE OF KENTUCKY, TO ADDRESS A JOINT SESSION OF THE GENERAL ASSEMBLY.

Preamble: Visit of Hon. A. P. Chandler, Governor of Kentucky.

WHEREAS, Honorable A. B. (Happy) Chandler, Governor of the State of Kentucky, will visit the State of North Carolina on Friday and Saturday, January sixth and seventh, one thousand nine hundred and thirty-nine; and

WHEREAS, the General Assembly of North Carolina desires that he address a joint session thereof: *Now, Therefore,*
Be it resolved by the Senate, the House of Representatives concurring:

Invited to address joint session.

SECTION 1. That the Honorable A. B. (Happy) Chandler, Governor of the State of Kentucky, be and he is hereby invited to address a joint session of the General Assembly of North Carolina at eleven o'clock, A. M., on Saturday, January seventh, one thousand nine hundred and thirty-nine, or as near such hour on said day as his convenience will permit.

Committee to extend invitation.

SEC. 2. That a committee of two from the Senate, to be appointed by the Lieutenant-Governor, and three from the House, to be appointed by the Speaker, inform Governor Chandler of this action.

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

In the General Assembly read three times and ratified, this the 18th day of January, 1939.

S. R. 8 RESOLUTION 4

A JOINT RESOLUTION INVITING MADAM FRANCES PERKINS, SECRETARY OF LABOR OF THE UNITED STATES, TO ADDRESS A JOINT SESSION OF THE GENERAL ASSEMBLY.

Preamble: Visit of Madam Frances Perkins, Secretary of Labor.

WHEREAS, Madam Frances Perkins, Secretary of Labor in the Cabinet of President Roosevelt, is expected to be in North Carolina on Wednesday, January eleventh, one thousand nine hundred and thirty-nine; and

WHEREAS, the General Assembly of North Carolina is desirous that the Secretary of Labor visit Raleigh and address the General Assembly in joint session: *Now, Therefore,*

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. That Madam Frances Perkins, Secretary of Labor of the United States, be, and she is hereby, invited to address a joint session of the General Assembly of North Carolina at twelve-fifteen P. M. on Wednesday, January eleventh, one thousand nine hundred and thirty-nine, or as near such hour on said day as her convenience will permit. Invited to address joint session.

SEC. 2. That a committee of two from the Senate, to be appointed by the Lieutenant-Governor, and three from the House, to be appointed by the Speaker, extend this invitation to Madam Perkins. Committee to extend invitation.

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

In the General Assembly read three times and ratified, this the 18th day of January, 1939.

H. R. 1 RESOLUTION 5

A JOINT RESOLUTION INFORMING HIS EXCELLENCY, THE GOVERNOR, THAT THE GENERAL ASSEMBLY IS READY TO PROCEED WITH PUBLIC BUSINESS.

Resolved by the House of Representatives, the Senate concurring:

SECTION 1. That a committee of two on the part of the Senate and three on the part of the House of Representatives be appointed to notify His Excellency, the Governor, that the General Assembly is organized and now ready to proceed with public business, and invite him to deliver any messages that he may have—in person or in writing. House resolution notifying Governor of organization of General Assembly.

SEC. 2. That this Resolution shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 18th day of January, 1939.

H. R. 4 RESOLUTION 6

JOINT RESOLUTION TO MOVE THE SITTINGS OF THE GENERAL ASSEMBLY OF ONE THOUSAND NINE HUNDRED AND THIRTY-NINE TO CHARLOTTE, NORTH CAROLINA, MECKLENBURG COUNTY, FOR ONE DAY.

Preamble: General Assembly invited to hold one day session in Charlotte.

WHEREAS, that Charlotte, North Carolina, the County Seat of Mecklenburg County, in which the Declaration of Independence was first signed on May twentieth, one thousand seven hundred and seventy-five, an account of which is embodied on our State flag. Mecklenburg County is rich in historical interest and is the final meeting place of Jefferson Davis and his Cabinet during the Civil War, and in and about said town many of the prominent men of our early history resided, and through our Representative in this Body, a cordial invitation has been extended to this Legislature to hold a one day meeting during this Session, in the historic Town of Charlotte, in the Mecklenburg County Courthouse; *Now, Therefore, be it*

Resolved by the House of Representatives, the Senate concurring:

Legislature to adjourn its sitting to Charlotte for one day.

SECTION 1. That the presiding officers of the Senate and House agree upon a day during this Session when the Legislature shall adjourn its sitting to Charlotte, and there transact its business for one day; and

Governor invited to accompany Legislature.

Purpose of meeting.

SEC. 2. *Be it further resolved,* that we respectfully invite His Excellency, the Honorable Clyde R. Hoey, Governor of our State, to accompany the Legislature to Charlotte, that the executive and the legislative bodies of North Carolina may indicate their interest in the historic significance of our great Piedmont section of the State, and their appreciation of the contribution which our forebears made in the formation and development thereof in colonial days.

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

In the General Assembly read three times and ratified, this the 18th day of January, 1939.

H. R. 22 RESOLUTION 7

A JOINT RESOLUTION TO BE ENTITLED AN ACT TO EXPEDITE THE ADJOURNMENT OF THE GENERAL ASSEMBLY.

Preamble: Desire to dispatch business of General Assembly more expeditiously.

WHEREAS, it is the desire of the members of the General Assembly to dispatch the business of the Assembly as expeditiously as may be consistent with the State's welfare; and

WHEREAS, the members believe that the adjournment of the Assembly can be expedited if Monday and Friday afternoons are utilized for the business of the Assembly: *Now, therefore,*

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. That Friday and Monday afternoons of each week be utilized for the business of the Assembly. Friday and Monday afternoon sessions.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 18th day of January, 1939.

H. R. 24 RESOLUTION 8

JOINT RESOLUTION INVITING THE HONORABLE AUBREY WILLIAMS, ADMINISTRATOR OF THE NATIONAL YOUTH ADMINISTRATION, TO ADDRESS A JOINT SESSION OF THE GENERAL ASSEMBLY.

WHEREAS, the State of North Carolina is receiving over a million and a half dollars this year from the National Youth Administration to educate, train and provide jobs for the youth of the State; and Preamble: Benefits to State from the N. Y. A.

WHEREAS, the Honorable Aubrey Williams, Administrator of the National Youth Administration, who is a Southerner and a native of Alabama, expects to be and will be in Raleigh on Friday, January thirteen, and since the Legislature during the present session will consider many problems relating to the youth of the State; *Now, Therefore* Visit of Hon. Aubrey Williams, Administrator of N. Y. A.

Be it resolved by the House of Representatives, the Senate concurring:

SECTION 1. That the Honorable Aubrey Williams, Administrator of the National Youth Administration, be invited to address the joint session of the General Assembly at twelve o'clock noon on Friday, January thirteen, one thousand nine hundred and thirty-nine. Invited to address joint session.

SEC. 2. That a committee of two from the Senate to be appointed by the Lieutenant-Governor, and three from the House to be appointed by the Speaker, deliver this resolution to the Honorable Aubrey Williams. Committee to extend invitation.

SEC. 3. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 18th day of January, 1939.

H. R. 150 RESOLUTION 9

A JOINT RESOLUTION INVITING HIS EXCELLENCY, GOVERNOR CLYDE R. HOEY, TO ADDRESS A JOINT SESSION OF THE GENERAL ASSEMBLY ON TUESDAY NIGHT, JANUARY THIRTY-FIRST, ONE THOUSAND NINE HUNDRED THIRTY-NINE.

Be it resolved by the House of Representatives, the Senate concurring:

Governor invited to address joint session.

SECTION 1. That a joint session of the House of Representatives and the Senate shall be held in the Hall of the House of Representatives on Tuesday night, January thirty-first, one thousand nine hundred thirty-nine, at eighty-thirty; and that a committee of three be appointed by the Speaker on the part of the House of Representatives, and a committee of two be appointed by the President on the part of the Senate, to invite His Excellency, the Governor, to be present at said joint session and deliver, in person or in writing, any message which he may have.

Committee to extend invitation.

SEC. 2. This resolution will be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 1st day of February, 1939.

S. R. 82 RESOLUTION 10

A JOINT RESOLUTION MEMORIALIZING THE PRESIDENT TO ESTABLISH A RECREATIONAL OR HISTORICAL PARK ALONG QUANKEY CREEK IN HALIFAX COUNTY, NORTH CAROLINA.

Preamble: Historical importance of County of Halifax.

WHEREAS, the County of Halifax is steeped in the historical traditions of the State of North Carolina from its early beginning, in that it was one of the original capitals of the State, the home of the first official Declaration of Independence, and the home of the forming of the State Constitution; and

Establishment of historical or recreational National Park contemplated.

WHEREAS, an extensive study has heretofore been made by the Historical Parks Division and the Recreational Parks Division of the Department of the Interior with a view to establishing in said County, in the ravines along Quankey Creek, an historical or recreational National Park; and

Interest in establishment of park.

WHEREAS, the establishment of such a park is of vital interest to the people of Halifax County, as well as to the people of the State of North Carolina as a whole; *Now, therefore,*

Be it resolved by the Senate, the House of Representatives concurring:

SECTION 1. That the General Assembly of North Carolina do memorialize the President of the United States to make immediately available the necessary funds from the appropriate source, money sufficient to establish in Halifax County, North Carolina, the National Park above referred to.

U. S. President memoralized to make available funds for establishment of National Park.

SEC. 2. That this Resolution and the record of its adoption be transmitted through the usual and appropriate channels to the President of the United States, to the Governor of North Carolina, to each member of the North Carolina delegation in Congress, and to the Committee of the Halifax Woman's Club.

Resolution transmitted to President, Governor etc.

SEC. 3. This Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of February, 1939.

S. R. 30 RESOLUTION 11

A JOINT RESOLUTION EXTENDING A WELCOME TO KING GEORGE VI AND QUEEN ELIZABETH.

WHEREAS, it is reliably reported in the public press that His Majesty, George VI, King of Great Britain and Ireland, Emperor of India and the Dominions beyond the Seas, and Queen Elizabeth will visit our country during the Spring of one thousand nine hundred and thirty-nine; and

Preamble: Expected visit of King George VI and Queen Elizabeth of England to United States.

WHEREAS, the population of the "Old North State", one of the Thirteen Original English Colonies, is the purest English Stock in the United States of America; and

English population in North Carolina.

WHEREAS, Roanoke Island in our State was the scene of the first English settlement on the North American Continent and in the Western Hemisphere under the leadership of that peerless Englishman, Sir Walter Raleigh; and

First English settlement at Roanoke Island.

WHEREAS, the first English subject born on said Continent or in said hemisphere, Virginia Dare, had the scene of her nativity in our State; and

Birthplace of Virginia Dare.

WHEREAS, our commonwealth was named after one of the most popular English Kings, Charles II; and

State named after English King.

WHEREAS, there is a memorial in the most honored and most sacred spot in the British Isles, Westminster Abbey, with the following inscription: "To the Glory of God and in Memory of Walter Hines Page, Ambassador from the United States of America to the Court of St. James, one thousand nine hundred

Memorial in Westminster Abbey to Walter Hines Page, U. S. Ambassador to England.

and thirteen—one thousand nine hundred and eighteen, England's Friend in an Hour of Need;" the American so honored being a son of this State; and

Friendship of State for English people.

WHEREAS, the people of this State entertain the most cordial and sincere sympathy and friendship for the English people and their Sovereigns, and are bound to them by countless ties; and

WHEREAS, the moveant herein has the honor to represent the County, Wake, of which Walter Hines Page was a son, and which was named after Esther Wake, a sister-in-law of one of the ablest of the Royal Governors of this Colony, William Tryon; *Now, Therefore,*

Be it resolved by the Senate, the House of Representatives concurring:

Appointment of committees to convey to visiting sovereigns greetings from State of North Carolina.

SECTION 1. That the Lieutenant Governor, or the presiding officer of this body, and the Speaker of the House be hereby authorized and directed to appoint committees from each body who shall cause to be conveyed from the people of the Sovereign State of North Carolina (subject to the limitation of our powers in respect to foreign affairs to which we agreed in the Constitution of the United States) to the visiting Sovereigns the greetings from and happiness of our people on account of this visit and a most cordial welcome to our shores and our felicitations on this occasion.

Judicial and Executive branches invited to participate.

SEC. 2. That the Judicial and Executive branches of the government be invited to participate in expressing these or kindred sentiments and to invite these visitors to our State should they find the opportunity.

SEC. 3. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 7th day of February, 1939.

H. R. 314 RESOLUTION 12

JOINT RESOLUTION INVITING THE HONORABLE ROBERT RICE REYNOLDS, UNITED STATES SENATOR FROM NORTH CAROLINA, TO ADDRESS A JOINT SESSION OF THE GENERAL ASSEMBLY.

Preamble: Visit of Hon. Robert R. Reynolds, U. S. Senator.

WHEREAS, the Honorable Robert Rice Reynolds, United States Senator, will visit the State of North Carolina on Monday, February thirteenth, one thousand nine hundred thirty-nine; and

WHEREAS, the General Assembly of North Carolina desires that he address a joint session thereof; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Invited to address joint session.

SECTION 1. That the Honorable Robert Rice Reynolds, United States Senator from North Carolina, be, and he is hereby, invited to address a joint session of the General Assembly of North Carolina at eight-thirty o'clock, Monday night, February thirteenth, one thousand nine hundred thirty-nine.

Committee to extend invitation.

SEC. 2. That a committee of two from the Senate, to be appointed by the President of the Senate, and three from the House of Representatives, to be appointed by the Speaker, shall extend this invitation to the Honorable Robert Rice Reynolds.

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

In the General Assembly read three times and ratified, this the 14th day of February, 1939.

H. R. 356 RESOLUTION 13

A JOINT RESOLUTION ACCEPTING THE INVITATION FROM THE NORTH CAROLINA-VIRGINIA UNIT OF THE NATIONAL COTTON COUNCIL TO HEAR AN ADDRESS BY THE HONORABLE OSCAR JOHNSTON, PRESIDENT OF THE NATIONAL COTTON COUNCIL, AT CITY AUDITORIUM ON TUESDAY, FEBRUARY TWENTY-FIRST, AT TEN-THIRTY A. M.

Preamble: Address by Hon. Oscar Johnston, President of National Cotton Council at Raleigh Memorial Auditorium.

WHEREAS, the Honorable Oscar Johnston, President of the National Cotton Council, will address a mass meeting of citizens interested in expansion of consumption of American cotton and cottonseed and the products thereof in the City Auditorium at Raleigh, North Carolina, on Tuesday, February twenty-first, at ten-thirty A. M.; and

Invitation to General Assembly to attend meeting.

WHEREAS, the General Assembly of North Carolina has been extended an invitation to be present at said mass meeting; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Acceptance of invitation.

SECTION 1. That the General Assembly of North Carolina accepts with pleasure the invitation of the National Cotton Council to be present at a mass meeting of citizens interested in expansion of consumption of American cotton and cottonseed and the products thereof in the City Auditorium at Raleigh, North Carolina, on Tuesday, February twenty-first, at ten-thirty A. M., which will be addressed by the Honorable Oscar Johnston, President of the National Cotton Council.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 16th day of February, 1939.

H. R. 382 RESOLUTION 14

JOINT RESOLUTION INVITING HIS EXCELLENCY, CLYDE R. HOEY, THE GOVERNOR OF NORTH CAROLINA, AND HIS EXCELLENCY, BURNET R. MAYBANK, THE GOVERNOR OF SOUTH CAROLINA, TO ADDRESS THE SESSION OF THE GENERAL ASSEMBLY IN CHARLOTTE, NORTH CAROLINA, ON FEBRUARY TWENTY-SECOND, ONE THOUSAND NINE HUNDRED THIRTY-NINE; AND INVITING THE HONORABLES CAMERON MORRISON, O. MAX GARDNER AND J. C. B. EHRINGHAUS, EX-GOVERNORS OF NORTH CAROLINA, TO ACCOMPANY THE LEGISLATURE TO CHARLOTTE AS HONOR GUESTS.

Preamble: Signing of Mecklenburg Declaration of Independence.

WHEREAS, the Declaration of Independence was first signed on May twentieth, one thousand seven hundred seventy-five, at Charlotte, North Carolina, the County Seat of Mecklenburg County; and

WHEREAS, Mecklenburg County is rich in historical interest; and

Legislature to adjourn its sitting to Charlotte for one day.

WHEREAS, the presiding officers of the Senate and House of Representatives have agreed that this legislature shall adjourn its sittings to Charlotte, and there transact its business for the day of February twenty-second, one thousand nine hundred thirty-nine; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Hon. Clyde R. Hoey, Governor of N. C., and Hon. Burnet R. Maybank, Governor of S. C., invited to address joint session in Charlotte.

SECTION 1. That the Honorable Clyde R. Hoey, Governor of the State of North Carolina, and the Honorable Burnet R. Maybank, Governor of the State of South Carolina, be, and they are hereby, invited to address a joint session of the General Assembly of North Carolina, in Charlotte, North Carolina, on Wednesday, February twenty-second, one thousand nine hundred thirty-nine;

Ex-Governors invited to attend.

and that the Honorables Cameron Morrison, O. Max Gardner and J. C. B. Ehringhaus, Ex-Governors of North Carolina, be invited to accompany the legislature to Charlotte as honor guests.

Committee to extend invitation.

SEC. 2. That a committee of two from the Senate, to be appointed by the President of the Senate, and three from the House, to be appointed by the Speaker, extend this invitation.

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

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

H. R. 393 RESOLUTION 15

JOINT RESOLUTION INVITING THE HONORABLE E. D. RIVERS, GOVERNOR OF THE STATE OF GEORGIA, TO ADDRESS A JOINT SESSION OF THE GENERAL ASSEMBLY.

WHEREAS, the General Assembly of North Carolina desires that the Governor of the State of Georgia address a joint session thereof: *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

SECTION 1. That the Honorable E. D. Rivers, Governor of the State of Georgia, be and he is hereby invited to address a joint session of this General Assembly on a date to be fixed by the committee hereinafter appointed.

Hon. E. D. Rivers, Governor of Georgia, invited to address joint session.

SEC. 2. That a committee of two from the Senate, to be appointed by the President of the Senate, and three from the House, to be appointed by the Speaker, inform Governor Rivers of this action.

Committee to extend invitation.

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

In the General Assembly read three times and ratified, this the 20th day of February, 1939.

S. R. 197 RESOLUTION 16

A JOINT RESOLUTION COMMEMORATING THE MECKLENBURG DECLARATION OF INDEPENDENCE AND EXPRESSING APPRECIATION FOR THE RECEPTION GIVEN THE GENERAL ASSEMBLY BY THE CITY OF CHARLOTTE.

Be it Resolved by the Senate, the House of Representatives concurring:

SECTION 1. That the General Assembly of North Carolina in session in the City of Charlotte this twenty-second day of February one thousand nine hundred and thirty-nine, recognizing the great and important patriotic and loyal service rendered by the

Commemoration of signing of the Mecklenburg Declaration of Independence.

citizenship of Mecklenburg County in the early struggles of our commonwealth in its fight for the establishment of a government free from oppression and tyranny with which we were sorely afflicted prior to one thousand seven hundred and seventy-five, express its gratitude and appreciation for the patriotism, heroism, chivalry and statesmanship demonstrated by the signing of the Mecklenburg Declaration of Independence thus contributing largely to the construction and evolution of this great Nation.

Tribute to bravery and devotion of early settlers of Mecklenburg County.

SEC. 2. That this General Assembly bring to the attention of the citizenship of the State and Nation that loyalty, devotion and bravery of the people of Mecklenburg County at a most crucial time to the cause of liberty and freedom from the yoke and bonds of a British Tyrant who had and was exacting from the subjects of these American Colonies a tribute that had grown to be not only burdensome but intolerable and unbearable in that they were enslaved by taxation without representation.

Signing of Declaration of Independence, May 20, 1775.

SEC. 3. That special attention be called to that most patriotic and heroic demonstration against the wrongful imposition of the British Crown by those men who met in the City of Charlotte on the twentieth day of May, one thousand seven hundred and seventy-five and over their own signatures expressed their indignation and pledged their all to the defense, protection and preservation of the peace and happiness of the Country.

Gratitude extended for reception at Charlotte.

SEC. 4. That the General Assembly extend its gratitude and appreciation for the cordial invitation and fine hospitality and reception by the City of Charlotte on this occasion.

Copy to Mayor of City.

SEC. 5. That a copy of this Resolution be presented to the City of Charlotte through its Mayor.

SEC. 6. That this Resolution shall be effective from and after its passage.

In the General Assembly read three times and ratified, this the 24th day of February, 1939.

S. R. 198 RESOLUTION 17

JOINT RESOLUTION COMMEMORATING THE CELEBRATION OF THE ANNIVERSARY OF THE DECLARATION OF INDEPENDENCE AND EXPRESSING THE APPRECIATION FOR THE RECEPTION GIVEN THE GENERAL ASSEMBLY BY THE CITY OF CHARLOTTE.

Be it Resolved by the Senate, the House of Representatives concurring:

Recognition of contribution by City of Charlotte to history of State.

SECTION 1. That the General Assembly of North Carolina in session at the City of Charlotte on this February twenty-second, one thousand nine hundred and thirty-nine, recognizing the great

and important service by the now beautiful and historic City of Charlotte, its citizenry of colonial days, who as pioneers in the early founding and building of this great State and Nation demonstrated that character of patriotism, heroism, chivalry and statesmanship that has contributed largely to the construction and evolution of the greatest Nation and government of the world.

SEC. 2. That this General Assembly bring to the attention of the citizenship of the State and Nation, that loyalty and devotion of the people of Charlotte at a most crucial time, to the cause of liberty and freedom from the yoke and bonds of a British Tyrant, who had and was exacting from the subjects of these American Colonies, a tribute that had grown to be not only burdensome, but intolerable and unbearable in that they were enslaved by taxation without representation.

Commemoration of contribution to cause of liberty and freedom.

SEC. 3. That the General Assembly extends its gratitude and appreciation for the cordial invitation and reception by the City of Charlotte on this occasion.

Gratitude extended for reception.

SEC. 4. That a copy of this Resolution be presented to the City of Charlotte with the expressed desire that it be framed and occupy a place on the walls of the courtroom or such other place as the City's governing body may deem fit and proper.

Copy of resolution for courtroom.

SEC. 5. That this Resolution shall be effective from and after its passage.

In the General Assembly read three times and ratified, this the 24th day of February, 1939.

H. R. 428 RESOLUTION 18

JOINT RESOLUTION TO INVITE HONORABLE BEN E. DOUGLAS, MAYOR OF THE CITY OF CHARLOTTE, HONORABLE H. W. HARKEY, CHAIRMAN OF THE COUNTY BOARD OF COMMISSIONERS, AND HONORABLE CLARENCE O. KUESTER, EXECUTIVE VICE-PRESIDENT OF CHARLOTTE CHAMBER OF COMMERCE, AS GUESTS AND TO SIT ON THE SPEAKER'S STAND AT THE JOINT SESSION OF THE GENERAL ASSEMBLY IN CHARLOTTE, NORTH CAROLINA.

Be it Resolved by the House of Representatives, the Senate concurring:

SECTION 1. That the Honorable Ben E. Douglas, Mayor of the City of Charlotte, Honorable H. W. Harkey, Chairman of the County Board of Commissioners, and Honorable Clarence O. Kuester, Executive Vice-President of Charlotte Chamber of Commerce, are hereby invited to attend the joint session of

Hon. Ben E. Douglas, H. W. Harkey, and Clarence O. Keuster, invited to attend joint session.

the General Assembly in Charlotte, North Carolina, on Wednesday, February twenty-second, one thousand nine hundred thirty-nine, and to sit on the Speaker's stand as guests of the General Assembly.

SEC. 2. That this Resolution shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of February, 1939.

H. R. 289 RESOLUTION 19

A JOINT RESOLUTION REQUESTING NORTH CAROLINA DELEGATION IN CONGRESS TO SECURE NECESSARY LEGISLATION AT THIS SESSION OF CONGRESS TO AUTHORIZE BOARD OF ENGINEERS OR UNITED STATES ARMY ENGINEERS CORPS TO MAKE SURVEYS OF UPPER CAPE FEAR RIVER TO DETERMINE FEASIBILITY OF IMPROVEMENTS THEREIN.

Inequality of State in Federal appropriations.

WHEREAS, North Carolina has received relatively less benefit from Federal New Deal spending, in proportion to taxes paid into the Federal Treasury, than any other State in the American Union; and

Natural resources of State.

WHEREAS, the natural resources and streams of North Carolina need and are worthy of great development, and particularly its farms, forests, rivers and sounds; and

Importance of Cape Fear River.

WHEREAS, approximately one-third of all the people of North Carolina live within the drainage basin or watershed of the Cape Fear River, this being North Carolina's most extensive watercourse wholly confined within State limits; and

Economic value to State in development facilities of river.

WHEREAS, navigation improvements are being made on the Lower Cape Fear; but little, if anything, has been done in this regard as to the portion of the Cape Fear River above Fayetteville; and soil conservation, flood control, navigation and possible power development may be practically accomplished and of great economic value to that section and to the State if this drainage area were given the study and development comparable to that given like or similar areas and conditions elsewhere in the United States: *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

N. C. delegation in Congress urged to seek Federal aid for development of facilities of river.

SECTION 1. That all Senators and Representatives in Congress from North Carolina, and each of them, be requested to secure enactment at this session of Congress of resolution or necessary authorization empowering the Board of Engineers

for Rivers and Harbors and the United States Army Engineers Corps to make suitable studies and surveys of the Upper Cape Fear River and its tributaries as may be necessary to determine feasibility of flood control, navigation improvement, and other incidental and related development of the said river and its tributaries.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

H. R. 450 **RESOLUTION 20**

A JOINT RESOLUTION OF SYMPATHY FOR THE CITIZENS OF THE STRICKEN AREA OF BERTIE COUNTY.

Preamble: Area of Bertie County stricken by hurricane.

WHEREAS, the General Assembly has learned, with profound regret, of the recent catastrophe which visited the County of Bertie, entailing loss of life and considerable damage to persons and property in that County, and

Desire to extend expression of sympathy to citizens of hurricane area.

WHEREAS, the General Assembly desires to express to the citizens of the stricken area of Bertie County, its sympathy for them in their distressing conditions brought about by the recent unfortunate experience: *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Expression of sympathy extended by General Assembly.

SECTION 1. That the General Assembly of North Carolina extends to the citizens of the area of Bertie County recently stricken by a hurricane, its profound sympathy in their distress.

SEC. 2. That this Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 27th day of February, 1939.

S. R. 138 **RESOLUTION 21**

A JOINT RESOLUTION FOR THE SUITABLE OBSERVANCE OF "FLAG WEEK".

Ideals and institutions symbolized by American Flag, in danger.

WHEREAS, the whole world, rent asunder by strife and contention, violence and intolerance, is today in a state of turmoil and uncertainty, marked by a titanic struggle between

Democracy and Autocracy, while in this Country anti-American forces are striving to discredit and destroy the ideals and institutions symbolized by the American Flag, and social, political and economic forces are combating one another; and

WHEREAS, never before in the history of the Nation has there been greater need among our people for the unity, cooperation and tolerance for which our Country's Flag stands; and

U. S. Flag Association conducting patriotic revival culminating in "Flag Week."

WHEREAS, with the Stars and Stripes as its emblem the United States Flag Association, a non-profit, non-partisan and non-sectarian organization incorporated under Federal Law and headed by the President of the United States as Honorary President General, is, with the cooperation of various groups, organizations and fields of activity in our National life, conducting a National Patriotic Revival, culminating in "Flag Week", June the eighth to fourteenth next, for the two-fold purpose; (1) of awakening our people to the dangers threatening our National life, thereby causing them to resolve as never before to uphold and preserve our Country's ideals and institutions, and (2) of promoting National Unity, Patriotic Cooperation and Racial and Religious Tolerance: *Now, therefore,*

Be it Resolved by the Senate of the State of North Carolina, the House of Representatives concurring:

Observance of "Flag Week" by State of North Carolina.

SECTION 1. That the General Assembly of North Carolina do heartily endorse the plan for a great National Patriotic Revival, and that the Governor of North Carolina is hereby authorized and requested: First, to direct the State Superintendent of Public Instruction to arrange for the suitable observance of "Flag Week" in all the public schools; and, secondly, to issue a proclamation calling upon the State officials to display the United States Flag on all State buildings during "Flag Week", and inviting the people of the State to fly the Flag at their homes and other suitable places as well as on their cars, and that in every community they hold special exercises at which means shall be taken to give significant expression to our thoughtful love of America, our pride in its glorious history, our faith in its destiny, our devotion to its ideals and institutions and our determination to uphold and preserve them now and forever.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of March, 1939.

S. R. 233 **RESOLUTION 22**

A JOINT RESOLUTION ORDERING THE CLERKS OF THE SENATE AND THE HOUSE OF REPRESENTATIVES TO PREPARE AND SUBMIT TO THE BOARD OF COMMISSIONERS OF MECKLENBURG COUNTY CERTIFIED COPIES OF THE LEGISLATIVE JOURNALS OF THE SESSION OF THE GENERAL ASSEMBLY WHICH MET IN CHARLOTTE, NORTH CAROLINA.

Preamble: One-day session of General Assembly in City of Charlotte.

WHEREAS, the one day session of the General Assembly which met in Charlotte, North Carolina on February twenty-second, one thousand nine hundred and thirty-nine was an event of particular historical significance to the people of Charlotte, North Carolina, and to the people of Mecklenburg County, and

First session held in Western North Carolina.

WHEREAS, the session held in Charlotte was the first session of the General Assembly ever held in Western North Carolina, and

Desire to incorporate official copies of Journals, etc. in permanent records of County.

WHEREAS, the officials of Mecklenburg County wish to incorporate into the permanent records of Mecklenburg County official copies of the Journals of the Senate and House of Representatives for the forty-third legislative day: *Now, therefore, Be it Resolved by the Senate, the House of Representatives concurring:*

Certified copies of Journals, etc. for Board of County Commissioners.

SECTION 1. That the Principal Clerks of the Senate and the House of Representatives are hereby ordered to prepare and submit to the Board of Commissioners of Mecklenburg County true and accurate copies of the Journals of the Senate and the House of Representatives for the forty-third legislative day, to be signed by the Lieutenant-Governor and the Speaker of the House, respectively, and the Clerks of the respective Bodies, and to be certified by the Secretary of State.

Copy of Resolution.

SEC. 2. That a copy of this Resolution shall be submitted along with the copies of the Journals to the Board of Commissioners of Mecklenburg County.

SEC. 3. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 6th day of March, 1939.

H. R. 593 RESOLUTION 23

A JOINT RESOLUTION EXPRESSING SYMPATHY AND RESPECT FOR HONORABLE JOHN S. MOORE ON ACCOUNT OF THE DEATH OF HIS DAUGHTER.

Preamble: Death of daughter of John S. Moore.

WHEREAS, the General Assembly of North Carolina has learned with deep regret of the death of the daughter of Honorable John S. Moore; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Sympathy extended to family.

SECTION 1. That the members of the General Assembly, having learned of the death of the daughter of Honorable John S. Moore, who is now an honored member of this General Assembly, representing Pitt County in the House of Representatives, do express their deepest sympathy to Mr. Moore and his bereaved family in this hour of their great sorrow.

Copy of Resolution to family.

SEC. 2. That a copy of this Resolution be forwarded to Mr. Moore and family.

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

In the General Assembly read three times and ratified, this the 8th day of March, 1939.

H. R. 704 RESOLUTION 24

A JOINT RESOLUTION TO PAY THE EXPENSES OF THE COMMITTEE FROM THE HOUSE OF REPRESENTATIVES AND THE SENATE VISITING THE STATE HOSPITAL AT MORGANTON.

Resolved by the House of Representatives, the Senate concurring:

Payment of expenses incurred by joint committee visiting State Hospital at Morganton.

SECTION 1. That in order to defray the expenses of the House and Senate Committees on Insane Asylums actually incurred in visiting the State Hospital at Morganton, the State Auditor be, and he is hereby authorized and directed to issue his warrant on the State Treasurer in the following amount in favor of Representative E. A. Rasberry, he having paid said expenses:

Names and amounts.

Representative E. A. Rasberry	$42.19
Representative Thomas N. Peele	
Representative J. W. Alexander	
Representative Carl Rudisill	
Representative Leon Butler	

Representative Wm. T. Hatch
Senator H. J. Hatcher.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 15th day of March, 1939.

S. R. 231 RESOLUTION 25

AN ACT MEMORIALIZING THE CONGRESS OF THE UNITED STATES TO ENACT LEGISLATION AMENDING THE MERCHANT MARINE ACT OF ONE THOUSAND NINE HUNDRED THIRTY-SIX.

Preamble: U. S. Merchant Marine.

WHEREAS, the United States has adopted as a policy the construction and maintenance of an adequate and well balanced merchant marine for the development of its foreign and domestic trade and for national defense; and

Building program for replacements.

WHEREAS, the United States Maritime Commission, pursuant to authority conferred by the Merchant Marine Act of one thousand nine hundred thirty-six, has adopted a long range building program for replacements and additions to the American Merchant Marine; and

WHEREAS, the program adopted by the United States Maritime Commission calls for the building of fifty vessels annually for ten years; and

Construction of ships in private shipyards.

WHEREAS, it is further the policy of the United States Government to have such ships built where possible, in private shipyards, otherwise the commission is authorized to construct such vessels in the navy yards at various points in the United States; and

Consideration of facilities for national defense at strategic points.

WHEREAS, under Title five, Section five hundred two (f) of the Merchant Marine Act of one thousand nine hundred thirty-six, if at any time the commission finds that the existing shipyards, including the navy yards, do not provide adequate facilities to meet necessary requirements for purposes of national defense and national emergencies, with special regard to providing facilities for the national defense at strategic points, it may, with the approval of the President, allocate such construction in such shipyards in such manner as it may determine to be fair, just and reasonable to all sections of the country; and

Shipyards near sources of raw material supply, rather than at strategic points.

WHEREAS, it has been necessary, due to competition, for the present shipyards to be established near the sources of supply of steel and other materials necessary for ship building; and

WHEREAS, such concentration of the present shipyards has resulted in many strategic points from the standpoint of national defense, being unable to establish yards for the building of vessels; and

Authority of U. S. Maritime Commission in awarding contracts.

WHEREAS, the United States Maritime Commission, pursuant to authority vested in it by the Merchant Marine Act of one thousand nine hundred thirty-six, is authorized to take into consideration cost differentials in awarding contracts for the construction of vessels; and

Equitable allocation of construction work provided for.

WHEREAS, this particular provision of the Merchant Marine Act of one thousand nine hundred thirty-six would enable the construction of vessels at important strategic points in the United States, if the facilities were available for such construction, which would result in a more equitable distribution in the allocation of construction work along the Atlantic, Gulf and Pacific coasts; and

WHEREAS, it would seem most necessary to decentralize the shipbuilding industry which is so important to our national defense; and

Strategic military importance of coast of North Carolina.

WHEREAS, the Coast of North Carolina is considered from a military standpoint very important strategically; and

WHEREAS, it has been proved that large sea-going vessels can be built in the harbor of Wilmington, North Carolina, which is a natural land-locked harbor, many of such vessels which were built during one thousand nine hundred seventeen and one thousand nine hundred eighteen now being in service; and

WHEREAS, the facilities which were erected during one thousand nine hundred seventeen and one thousand nine hundred eighteen were forced to be dismantled due to competition; and

Facilities of Southport and Morehead City.

WHEREAS, Southport and Morehead City are located on deep water harbors and possess an ideal climate for building and assembly; *Now, therefore,*

Be it Resolved by the Senate of the State of North Carolina the House of Representatives concurring:

U. S. Congress petitioned to amend Merchant Marine Act to provide for development of strategic points.

SECTION 1. That this group of North Carolina citizens hereby petition the United States Congress to enact legislation amending Title five, Section five hundred two (f) of the Merchant Marine Act of one thousand nine hundred thirty-six, authorizing the United States Maritime Commission, from a standpoint of national defense, and in order to bring about a more equitable distribution of labor in carrying out its building program, to furnish facilities for shipbuilding at such strategic points as in its opinion are necessary to further the policy adopted under the Merchant Marine Act of one thousand nine hundred thirty-six.

SEC. 2. That copies of this Resolution be forwarded to the North Carolina Congressional Delegation and to His Excellency, The President of the United States, Honorable Franklin D. Roosevelt, and to the Chairman of the United States Maritime Commission, Honorable Emory S. Land. Copies of Resolution.

SEC. 3. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. R. 325 RESOLUTION 26

A JOINT RESOLUTION MEMORIALIZING THE PRESIDENT AND THE SECRETARY OF WAR OF THE UNITED STATES TO FOSTER THE PASSAGE OF LEGISLATION IN CONGRESS, MAKING AN ALLOWANCE TO ALL ACTIVE MEMBERS OF THE OFFICERS OF THE RESERVE CORPS OF THE ARMY AND THE NAVY OF THE UNITED STATES.

WHEREAS, there are thousands of young men in the United States who qualify themselves as officers in the Army and the Navy of the United States and receive respective commissions in the Reserve Corps in their respective branches of the service; and Preamble: Officers of the Reserve Corps.

WHEREAS, in order to keep these commissions and remain active, these officers are required to do a lot of work on their own time and without compensation, and they are also required to purchase uniforms and certain equipment from their own funds, which equipment must, under the regulations of the War Department, meet the standard of professional efficiency under such rules as the President and the War Department may prescribe; and Expenditure of personal funds, etc. required of officers.

WHEREAS, equity demands that if these officers are to give their time without compensation in making themselves efficient in service, the United States should bear the actual cost thereof and not require such officers to expend their own personal funds in order to properly equip themselves to meet the efficiency required; *Now, therefore,* Equitable for the government to pay cost involved.

Be it Resolved by the Senate, the House of Representatives concurring:

SECTION 1. That the General Assembly of North Carolina do memorialize the President and the Secretary of War of the United States to make available from such funds as may be available, compensation and allowance for services and equipment, as follows: President and Secretary of War memoralized to make funds available for services and equipment.

1. For uniforms, fifty dollars ($50.00) per year for the first three years of commissioned service of each Reserve Officer, under such regulations as the War Department may prescribe.

2. An allowance of one dollar ($1.00) to all Reserve officers on the active list for each hour of credits earned in Army Extension Courses and other forms of inactive status training approved by the War Department; allowance hereunder not in any event to exceed twenty-five dollars ($25.00) in any one year to any one officer.

Resolution transmitted to President and Secretary of War.

SEC. 2. That this Resolution and the record of its adoption be transmitted through the usual and appropriate channels to the President and the Secretary of War of the United States.

SEC. 3. This Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 17th day of March, 1939.

S. R. 347 RESOLUTION 27

A JOINT RESOLUTION EXTENDING AN INVITATION TO KING GEORGE VI AND QUEEN ELIZABETH TO VISIT ROBESON COUNTY.

Preamble: Proposed visit of King George VI, and Queen Elizabeth.

WHEREAS, His Majesty, George VI, of the United Kingdom of Great Britain and of the British Dominions beyond the Seas, King, Defender of the Faith, Emperor of India, and her Royal Highness, Queen Elizabeth, have expressed their intention to visit the United States sometime during the year one thousand nine hundred thirty-nine; and

Scotch heritage of Robeson County.

WHEREAS, Her Royal Highness, Queen Elizabeth, is Scotch, and Robeson County has a larger percentage of Scotch descendants than any like area in the world outside of Scotland and was once the home of Flora McDonald, the famous Scotch heroine who saved the life of Bonnie Prince Charlie when he was pursued by Oliver Cromwell; and

Flora McDonald College named in honor of Scotch heroine.

WHEREAS, Flora McDonald College, a high Grade-A women's college, located at Red Springs, in Robeson County, North Carolina was named for the Scotch heroine, Flora McDonald, and two of her children are buried upon the campus of the college; and

Friendship for English people.

WHEREAS, the people of Robeson County have always entertained a sincere sympathy and friendship for the English people, particularly the Scotch; *Now, therefore,*

Be it Resolved by the Senate, the House of Representatives concurring:

Committee appointed to extend invitation from people of Robeson County.

SECTION 1. That the Presiding Officer of this body, and the Speaker of the House of Representatives be hereby authorized and directed to appoint committees from each body who shall cause to be conveyed from the people of the County of Robeson through the proper channels to the visiting Sovereigns, His Majesty, the King and Her Royal Highness, the Queen, greetings and a sincere wish that they may find it possible to visit the County of Robeson during their stay in the United States.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

H. R. 871 RESOLUTION 28

A JOINT RESOLUTION RELATIVE TO THE INTRODUCTION OF FURTHER BILLS IN THE ONE THOUSAND NINE HUNDRED AND THIRTY-NINE GENERAL ASSEMBLY, AND AS FAR AS MAY BE, SUGGEST THE DATE ADJOURNMENT OF SAME.

Preamble: Condition of Senate and House calendars.

WHEREAS, practically all of the major legislation necessary to be passed at the General Assembly of one thousand nine hundred and thirty-nine is now either passed or before the General Assembly; and

WHEREAS, the two houses are practically up with the calendar; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

March 27, 1939, set as last day for introduction of bills.

SECTION 1. That no bills will be introduced in either house or received by either house after March twenty-seven, one thousand nine hundred and thirty-nine, either Local or Public, and that the members and presiding officers of each house will endeavor to conclude the work before the General Assembly so as to adjourn *sine die* on April first, one thousand nine hundred and thirty-nine, or as soon thereafter as may be possible, or sooner if possible.

Time of sine die adjournment.

In the General Assembly read three times and ratified, this the 22nd day of March, 1939.

H. R. 652 RESOLUTION 29

A JOINT RESOLUTION TO PROVIDE FOR GIVING INSTRUCTIONS IN SAFETY EDUCATION IN PUBLIC SCHOOLS.

Preamble: Safety Education.

WHEREAS, The subject of safety education is receiving prominent attention by civic organizations, leading citizens and school officials of our Country, and

Advantages of class-room instruction.

WHEREAS, Statistics prove that many lives could be saved and accidents prevented if our school children were given an opportunity for class-room instruction in safety education against accidents in the home, on the play-ground, at school and upon the highways, and

Co-operation of officials.

WHEREAS, The General Assembly of North Carolina recognizes that the State Department of Education, and school officials throughout the State, are willing to cooperate in selecting right and proper subject material upon safety to be taught in the schools of the State, *Now, therefore, be it*

Resolved by the House of Representatives, the Senate concurring:

State Superintendent of Public Instruction authorized to add course of study on "Safety."

SECTION 1. That the State Superintendent of Public Instruction be, and he is hereby, directed and instructed, to add a course of study upon the subject of "Safety" in which every child in the first eight grades of the public school of North Carolina shall be given a course in safety education; and that he be further instructed and directed to contact each county and city superintendent and advise them of this Resolution and ask their cooperation in giving effect to the teaching of safety and in obtaining for the students the best materials now available.

SEC. 2. That this Resolution be in effect from, and after, its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. R. 738 RESOLUTION 30

A JOINT RESOLUTION TO PAY THE EXPENSES OF THE COMMITTEE ON PENAL INSTITUTIONS FROM THE HOUSE OF REPRESENTATIVES AND THE SENATE VISITING THE PRISON CAMP AT MARION, McDOWELL COUNTY.

Resolved by the House of Representatives, the Senate concurring:

Payment of expenses incurred by committee visiting prison camp, lime quarry, etc. at Marion, McDowell County.

SECTION 1. That in order to defray the expenses of the House and Senate Committees on Penal Institutions actually incurred in visiting the prison camp, lime quarry, etc., at Marion, Mc-

Dowell County, the State Auditor, be, and he is hereby authorized and directed to issue his warrants on the State Treasurer in the following amounts and to the following persons:

Names and amount.

Senator Edgar H. Bain	$ 8.50
Representative John R. Morris	$ 8.50
Total	$17.00

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 24th day of March, 1939.

H. R. 515 RESOLUTION 31

A JOINT RESOLUTION TO AUTHORIZE AND EMPOWER THE GOVERNOR OF NORTH CAROLINA TO NAME AND APPOINT A COMMISSION OF SEVEN MEMBERS, TO SERVE WITHOUT COMPENSATION, FOR THE PURPOSE OF DETERMINING WAYS AND MEANS OF PROVIDING MORE SUITABLE AND ADEQUATE INSTRUCTION IN THE PUBLIC SCHOOLS FOR EXCEPTIONAL CHILDREN AND TO MAKE RECOMMENDATIONS TO THE GOVERNOR AND GENERAL ASSEMBLY OF ONE THOUSAND NINE HUNDRED AND FORTY-ONE.

Be it Resolved by the House of Representatives, the Senate concurring:

Governor to appoint committee to study problem of providing more suitable instruction for the "exceptional children" in public schools.

SECTION 1. That the Governor of this State be, and he is hereby, authorized and empowered to appoint a commission to be composed of a chairman and six other members, to serve without compensation, for the purpose of determining ways and means of providing more suitable and adequate instruction in the public schools for exceptional children, and to make recommendations to the Governor and General Assembly of one thousand nine hundred and forty-one.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. R. 685 **RESOLUTION 32**

A JOINT RESOLUTION REQUESTING THE COMMANDING GENERAL AT FORT BRAGG, NORTH CAROLINA, TO TRANSMIT A BRONZE LIKENESS OF DAVID CROCKETT TO THE MAYOR AND TOWN COUNCIL OF THE CITY OF SAN ANTONIO IN THE STATE OF TEXAS.

Preamble: David Crockett, native North Carolinian.

WHEREAS, David Crockett was a native son of North Carolina, having been born in this State prior to the formation of the State of Tennessee; and

Military record.

WHEREAS, he was the son of a Revolutionary Soldier from Lincoln County in this State who engaged bravely and with distinction in many battles in the War for Independence; and

Marriage to Elizabeth Patton.

WHEREAS, he married Elizabeth Patton, a native of Buncombe County, North Carolina, who, after his death at the Alamo, followed him to Texas and was, in recognition of her late husband's service, granted twelve hundred acres of land in Hood County, Texas, as a homestead, and upon which she reared her family; and

Elizabeth Patton Crockett memorialized by Texas as typical pioneer mother.

WHEREAS, the State of Texas has memorialized her as a typical pioneer mother and a life size statue was erected to her memory in said county by the State of Texas; and

Bronze likeness of David Crockett, now in possession of commanding officer at Fort Bragg.

WHEREAS, the Boone Trail Memorial Association has had struck, at its own expense, a tablet which is a bas-relief likeness of David Crockett and has had the same transmitted to Fort Bragg where it is now in the possession of the Commanding General of that Army Post, who has declared his willingness to transmit and present the same to the Mayor of the City of San Antonio in the State of Texas to be erected on the site where David Crockett fell; and

WHEREAS, the Mayor of San Antonio has indicated his desire to receive the said tablet on behalf of Hood County, Texas, and erect it at some suitable spot there; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Resolution requesting bronze tablet be given to the City of San Antonio.

SECTION 1. That a copy of this Resolution be transmitted to the Commanding General of Fort Bragg, with the request that the bronze tablet referred to in the preamble to this Resolution be transmitted to the Mayor and Council of the City of San Antonio in Texas, in order that the same may be erected at some suitable spot on the site of the Alamo Massacre, and where David Crockett fell.

Copy to Secretary of State and Mayor of San Antonio.

SEC. 2. That a certified copy of this Resolution be sent by the Secretary of State of North Carolina to the Mayor and Council of the City of San Antonio, Texas.

SEC. 3. This Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. R. 978 RESOLUTION 33

A JOINT RESOLUTION EXTENDING APPRECIATION AND GRATIFICATION TO HONORABLE D. L. WARD, A. A. KAFER AND OTHERS.

Preamble: Entertainment of General Assembly by citizens of Craven County.

WHEREAS, the Honorable D. L. Ward, A. A. Kafer and other distinguished friends from Craven County were hosts to the members of the General Assembly and employees at a delightful fish fry and outing on the twenty-third day of March, one thousand nine hundred thirty-nine; and

WHEREAS, it is the wish and desire of the membership of the General Assembly to properly convey to these parties sincere appreciation for the enjoyment of the occasion; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Appreciation of General Assembly and employees, extended.

SECTION 1. That each and every member of the General Assembly, individually and collectively, do hereby convey and express to the Honorable D. L. Ward, A. A. Kafer and their friends from Craven County, profound appreciation and gratitude for the splendid hospitality accorded the membership of the General Assembly, and its employees, by reason of having acted as hosts on the occasion of this most delicious and delightful Craven County fish fry.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. R. 985 RESOLUTION 34

A JOINT RESOLUTION APPOINTING A COMMISSION TO ATTEND THE CENTENNIAL CELEBRATION OF DUKE UNIVERSITY AND TO REPRESENT THE STATE OF NORTH CAROLINA IN WELCOMING VISITORS TO THAT OCCASION.

Preamble: Centennial celebration of Duke University.

WHEREAS, Duke University is celebrating on April twenty-first, twenty-second, and twenty-third, one thousand nine hundred and thirty-nine, the Centennial of its origins; and

History of development.

WHEREAS, first at Union Institute in Randolph County, later becoming Normal College, an institution affiliated with the State of North Carolina and devoted to teacher training, then as Trinity College and now as Duke University, this institution has contributed much to the educational, religious and cultural life of North Carolina during the past one hundred years; and

National standing of university.

WHEREAS, because of the scholastic attainments of its faculty, the development of its facilities for teaching and research, and the national character of its student body and following, Duke University does much to advance the standing of North Carolina among the states of the Union; and

WHEREAS, on the occasion of the celebration of its Centennial there will be in attendance at said university many visitors from outside North Carolina; *Now therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Commission appointed.

SECTION 1. That there is hereby appointed a commission which shall be composed of fourteen members as follows: The Governor as honorary chairman, the Lieutenant Governor, the Secretary of State, the State Auditor, the State Treasurer, the Superintendent of Public Instruction, the Attorney General, the Speaker of the House of Representatives, three members of the Senate to be appointed by the Lieutenant Governor, and three members of the House of Representatives to be appointed by the Speaker of the House.

Functions of Commission.

SEC. 2. The purposes of this Joint Resolution are to provide for representation of the General Assembly at the Centennial Celebration of Duke University at Durham on April twenty-first, twenty-second, and twenty-third, one thousand nine hundred and thirty-nine, so that the members of the commission, appointed pursuant hereto, may extend to Duke University the felicitations of the General Assembly and, on behalf of the State of North Carolina, join in the welcoming and entertaining of guests from outside the State of North Carolina who will be in attendance at said celebration.

Chairman of Commission.

SEC. 3. Said commission shall have the authority to select its own chairman and to appoint its official spokesman.

Term of members.

SEC. 4. Said commission shall serve without pay only so long as it is necessary to carry out the purposes of this Resolution.

SEC. 5. This Resolution shall be in force from the date of its ratification.

In the General Assembly read three times and ratified, this the 28th day of March, 1939.

H. R. 538 RESOLUTION 35

JOINT RESOLUTION DESIGNATING CERTAIN PARTS OF UNITED STATES HIGHWAYS NUMBER TWENTY-THREE AND NUMBER TWENTY-FIVE IN WESTERN NORTH CAROLINA AS THE "ROBERT E. LEE HIGHWAY."

Preamble: Part of U. S. Highway No. 23 unnamed.

WHEREAS, there is in North Carolina a part of the Robert E. Lee Highway on United States Highway Number twenty-five and United States Highway Number twenty-three lying between the South Carolina-North Carolina line and the Tennessee-North Carolina line still unnamed; and

WHEREAS, it is desired that this link should be designated as part of the Robert E. Lee Highway; *Now, therefore,*

RESOLVED by the House of Representatives, the Senate concurring:

Highway designated as "Robert E. Lee Highway."

SECTION 1. That the following highway in Western North Carolina shall be designated as the "Robert E. Lee Highway:" Beginning at the South Carolina line where United States Highway Number twenty-five enters the State from Greenville, South Carolina, near Tuxedo, thence through Hendersonville to Asheville, and continuing on United States Highway Number twenty-three to the Tennessee line leading to Johnson City, Tennessee.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. R. 1015 RESOLUTION 36

JOINT RESOLUTION AUTHORIZING AND DIRECTING THE SECRETARY OF STATE TO HAVE PRINTED FOUR THOUSAND COPIES OF COMMITTEE SUBSTITUTE FOR HOUSE BILL FORTY-FIVE AS AMENDED KNOWN AS "THE MACHINERY ACT OF ONE THOUSAND NINE HUNDRED THIRTY-NINE", AND ALSO TO HAVE PRINTED FIVE THOUSAND COPIES OF COMMITTEE SUBSTITUTE FOR HOUSE BILL THIRTEEN AS AMENDED KNOWN AS "THE REVENUE ACT OF ONE THOUSAND NINE HUNDRED THIRTY-NINE"; AND THAT THE DISTRIBUTION THEREOF BE UNDER THE DIRECTION OF THE COMMISSIONER OF REVENUE.

Resolved by the House of Representatives, the Senate concurring:

Codification and printing of committee substitute for H. B. 45, "The Machinery Act," and amendments thereto.

SECTION 1. That the Secretary of State be and he is hereby authorized and directed to codify, by and with the advice of Attorney General, and place into pamphlet form in one act the

committee substitute for House Bill forty-five known as "The Machinery Act of one thousand nine hundred thirty-nine" and all Acts amendatory thereof, and, after inserting all amendments in their proper places, he is authorized and directed to have printed four thousand copies of said codified law.

Codification of printing of committee substitute for H. B. 13, "The Revenue Act," and amendments thereto.

SEC. 2. That the Secretary of State be and he is hereby authorized and directed to codify, by and with the advice of Attorney General, and place into pamphlet form in one act the committee substitute for House Bill thirteen as amended known as "The Revenue Act of one thousand nine hundred thirty-nine" and all Acts amendatory thereof, and, after inserting all amendments to said "Revenue Act of one thousand nine hundred thirty-nine" in their proper places, he is authorized and directed to have printed five thousand copies of said codified law.

Distribution.

SEC. 3. That the distribution of the pamphlets of the codified law as described in Section one and Section two of this Resolution be under the direction of the Commissioner of Revenue.

SEC. 4. That this Resolution shall be in effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

H. R. 1043 RESOLUTION 37

A JOINT RESOLUTION EXTENDING APPRECIATION AND THANKS TO HONORABLE U. S. PAGE, AND OTHERS, OF BLADEN COUNTY.

Preamble: Hon. U. S. Page and friends hosts to General Assembly at barbecue.

WHEREAS, the Honorable U. S. Page, and friends from Bladen County, were hosts to the members of the General Assembly, and employees, at a delightful barbeque on the twenty-fifth day of January, one thousand nine hundred and thirty-nine; and

WHEREAS, the members of the General Assembly desire to convey appreciation for the pleasure afforded them on that occasion; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Expression of appreciation extended.

SECTION 1. That the members of the General Assembly do hereby convey and express to the Honorable U. S. Page, and his friends from Bladen County, appreciation and gratitude for the splendid hospitality shown the membership of the General Assembly and its employees as hosts at this delightful barbeque.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 30th day of March, 1939.

S. R. 362 **RESOLUTION 38**

JOINT RESOLUTION TO PROVIDE A DEFICIENCY APPROPRIATION FOR THE COMMISSION ON REVISION OF THE LAWS OF NORTH CAROLINA RELATING TO ESTATES.

Preamble: 1935 resolution for appointment of commission for study of laws of estates.

WHEREAS, pursuant to Resolution Number twenty-five of the General Assembly of North Carolina of one thousand nine hundred thirty-five a commission was appointed by the Governor to investigate and determine what changes should be made in the laws of North Carolina affecting the descent and distribution of property of intestates, etc., as in said Resolution provided; and

Commission continued in 1937.

WHEREAS, said commission was continued pursuant to Resolution Number forty-five of the General Assembly of one thousand nine hundred thirty-seven and directed to report to this General Assembly; and

Appropriations for use of commission exhausted.

Deficit.

WHEREAS, the appropriations made by the said Resolution for the use of said commission in its said work have been exhausted, and there is now a deficit which does not exceed the sum of two hundred fifty dollars ($250.00), and the money should now be appropriated with which to complete the payment thereof; and

Bill recommended by commission now pending before General Assembly.

WHEREAS, the said commission has now completed its work and has made its report to this General Assembly, and a bill is now pending before this General Assembly, the enactment of which was recommended by said commission, which said bill it is extremely difficult for the General Assembly to properly consider in detail within the time at its disposal without the aid for purposes of explanation of a member or members of the said commission who have studied the subjects embraced therein in detail and are familiar therewith, and it is therefore desired that a member or members of the said commission be procured to aid the committees of this General Assembly in the study of the said bill; and

Desire of General Assembly committees to provide compensation for members in attendance.

WHEREAS, members of the said commission have expressed willingness to aid the committees of this General Assembly in said work, but the committees are unwilling to request such service without paying per diem and expenses in the same manner as is provided by the Resolution under which said commission has been working; *therefore,*

Be it Resolved by the Senate, the House of Representatives concurring:

Appropriation for per diem and expenses of Commission.

SECTION 1. There is hereby appropriated a sum not exceeding two hundred fifty dollars ($250.00) for the purpose of paying the per diem and expenses of the Commission on Revision of the laws of North Carolina relating to estates, and for the purpose of paying per diem and expenses of such members of the commission as may attend and aid the committees of this General Assembly in studying and considering the said bill, which sum shall be immediately available upon the ratification of this Resolution.

SEC. 2. This Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. R. 459 RESOLUTION 39

A JOINT RESOLUTION TO PROVIDE FOR AN EDUCATIONAL AND HISTORICAL PAGEANT IN NEW BERN, NORTH CAROLINA, COMMEMORATING THE ONE HUNDRED SEVENTY-FIFTH ANNIVERSARY OF THE NEW BERN SCHOOLS, AND THE APPOINTMENT OF COMMITTEES BY THE LIEUTENANT GOVERNOR AND THE SPEAKER OF THE HOUSE OF REPRESENTATIVES TO ATTEND SAID CELEBRATION.

Preamble: Educational and historic pageant to be held in New Bern.

WHEREAS, New Bern, second oldest town in North Carolina and the first capital of our Independent State, will commemorate the one hundred seventy-fifth anniversary of its schools on the night of May fourth, one thousand nine hundred thirty-nine, with an educational and historical pageant; and

WHEREAS, the New Bern school ranks as the oldest incorporated school in this State and the second oldest private secondary institution in English America to receive a charter; and

State Officers and Legislators invited to attend pageant.

WHEREAS, all State officers and Legislators are invited to attend the pageant as honor guests, with Governor Clyde R. Hoey as the chief speaker; *Now, therefore,*

Be it Resolved by the Senate, the House of Representatives concurring:

Appointment of committee to attend pageant as official representatives of 1939 General Assembly.

SECTION 1. That the Lieutenant Governor is hereby authorized to appoint two Senators, and the Speaker of the House of Representatives is hereby authorized to appoint three Representatives, to attend the said educational and historical pageant in New Bern on May fourth, one thousand nine hundred thirty-

nine, at no expense to the State, as official representatives of the one thousand nine hundred thirty-nine General Assembly.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. R. 1177 RESOLUTION 40

A JOINT RESOLUTION ENDORSING HIS EXCELLENCY, CLYDE R. HOEY, FOR NOMINATION BY THE DEMOCRATIC PARTY FOR THE HIGH OFFICE OF PRESIDENT OF THE UNITED STATES.

Preamble: Patriotic and untiring service of Governor Hoey.

WHEREAS, His Excellency, Clyde R. Hoey, has served unselfishly, untiringly, patriotically and well as Governor of this State since his election to that high office in November, one thousand nine hundred thirty-six; and

Problems of State solved with credit to himself and to people of State.

WHEREAS, due to his unexcelled leadership and ability in coping with the problems which have confronted him as the Chief Executive of this State, he has masterfully and successfully encountered and solved the many and varied problems which have arisen during the term of his office with high credit to himself and to the great people of this State; and

Demonstration of ability as a great leader.

WHEREAS, he has most successfully demonstrated his ability as a great leader by uniting the people of this State in the advancement of their common cause for the better social, economic and political welfare of the State of North Carolina, and by his unselfish, patriotic and efficient administration, and leadership has demonstrated his capacity and fitness to serve as the Chief Executive of all the people of the United States; *Now, therefore,*

Be it resolved by the House of Representatives, the Senate concurring:

Endorsement of Governor Hoey for nomination by Democratic Party for President of United States.

SECTION 1. That we most heartily recommend and endorse His Excellency, Clyde R. Hoey, Governor of North Carolina, to the Democratic Convention to be held in one thousand nine hundred forty for the nomination of the Democratic Party for the high office of President of the United States of America.

Copy of resolution transmitted to Chairman of Democratic State Convention.

SEC. 2. That a certified copy of this Resolution be forwarded to the Chairman of the next Democratic State Convention, which meets for the purpose of selecting delegates to the National Democratic Convention, with the request that certified copies of this Resolution be presented to the National Democratic Convention at its meeting in one thousand nine hundred forty.

Presentation to National Democratic Convention.

SEC. 3. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

H. R. 1179 RESOLUTION 41

A JOINT RESOLUTION CALLING A JOINT MEETING OF THE SENATE AND HOUSE OF REPRESENTATIVES TO ELECT TRUSTEES OF THE UNIVERSITY OF NORTH CAROLINA.

Resolved by the House of Representatives, the Senate concurring:

Joint meeting for election of trustees of University of N. C.

SECTION 1. That there shall be a joint meeting of the Senate and House of Representatives in the hall of the House of Representatives on the thirty-first day of March, one thousand nine hundred and thirty-nine, at the hour of twelve-thirty o'clock P. M., for the purpose of electing trustees of the University of North Carolina.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 31st day of March, 1939.

S. R. 290 RESOLUTION 42

A JOINT RESOLUTION EXPRESSING SYMPATHY AND RESPECT FOR HONORABLE K. CLYDE COUNCIL ON ACCOUNT OF THE DEATH OF HIS BROTHER, JESSE K. COUNCIL.

Preamble: Death of brother of Hon. K. Clyde Council.

WHEREAS, the General Assembly of North Carolina has learned with deep regret of the death of the brother of Honorable K. Clyde Council; *Now, therefore,*

Be it Resolved by the Senate, the House of Representatives concurring:

SECTION 1. That the members of the General Assembly having learned of the death of the brother of Honorable K. Clyde Council, who is now an honored member of this General Assembly, representing Columbus County in the Senate, do express their deepest sympathy to Senator Council and his bereaved family in this hour of their great sorrow.

Sympathy of General Assembly extended.

Copy to family.

SEC. 2. That a copy of this Resolution be forwarded to Senator Council and his family.

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

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. R. 458 RESOLUTION 43

A JOINT RESOLUTION AUTHORIZING THE GOVERNOR TO APPOINT A COMMISSION TO STUDY A FAIR LABOR STANDARDS ACT FOR NORTH CAROLINA AND TO REPORT TO THE NEXT GENERAL ASSEMBLY.

Be it Resolved by the Senate, the House of Representatives concurring:

Commission appointed to study and recommend a Fair Labor Standards Act for State.

SECTION 1. That the Governor be, and he is hereby authorized and directed to appoint a commission of five members to make a study of the maximum hours and minimum wages for employment of male and female persons in North Carolina, and report to the next General Assembly its findings and recommendations with regard to the enactment of a Fair Labor Standards Act for this State, with due regard to its relationship to the employees and employers therein, to the end that the next General Assembly may have fully presented to it all available information for consideration in connection with such legislation.

Chairman.

SEC. 2. That the chairman of the said commission shall be the Commissioner of Labor of the State of North Carolina. The other members of said commission shall receive the usual per diem compensation and necessary expenses incurred in attending meetings of the commission.

Compensation.

SEC. 3. That this Joint Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. R. 492 RESOLUTION 44

JOINT RESOLUTION RECOMMENDING TO THE GOVERNOR AND THE COUNCIL OF STATE THE EMPLOYMENT OF A PERMANENT GUIDE FOR POINTS OF HISTORICAL INTEREST IN THE STATE CAPITAL IN RALEIGH.

Preamble: Points of historical interest around State Capitol.

WHEREAS, there are many points of important historical interest to all the citizens of North Carolina in and around the State Capitol, state buildings and institutions in the City of

Raleigh that have particular educational value and advantages to the citizens of our State, and especially to the many thousands of our school children, who annually visit the Capital; and

Nation-wide publicity program, now being conducted by State.

WHEREAS, North Carolina is now engaged in a nation-wide publicity and advertisement program that is attracting many thousands of tourists to our State, and especially to the Capital of North Carolina, all of whom are interested in the historical past and the promising future of our great State; and

Value of central bureau of information or full-time guide.

WHEREAS, there is no central bureau of information nor a guide available for the purpose of conducting tours to the points of historical interest in the State Capital, and giving information to those interested, and

WHEREAS, it is the sense of the General Assembly that such a full time guide would be beneficial and helpful to the advertising campaign that North Carolina is conducting, and would be highly educational to the youth of the State who visit the Capital City: *Therefore, be it*

Resolved by the House of Representatives, the Senate concurring:

Employment of permanent guide recommended.

SECTION 1. That the General Assembly do recommend to the Governor and the Council of State that a permanent guide be employed for the purposes herein enumerated, and that the compensation of said guide be fixed by the Governor and the Council of State, and be paid from the Emergency and Contingency Fund.

SEC. 2. That this Resolution shall be in force from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. R. 494 RESOLUTION 45

A JOINT RESOLUTION AUTHORIZING THE GOVERNOR OF THE STATE OF NORTH CAROLINA TO APPOINT A COMMISSION TO COOPERATE IN THE SESQUICENTENNIAL CELEBRATION OF THE UNIVERSITY OF NORTH CAROLINA.

Preamble: Sesquicentennial celebration of the University of North Carolina.

WHEREAS, the University of North Carolina was chartered by the General Assembly in the year one thousand seven hundred eighty-nine, and

WHEREAS, the cornerstone of the old East Dormitory of the University of North Carolina was laid in the year one thousand seven hundred ninety-three, and

WHEREAS, the University of North Carolina actually opened its doors to students in the year one thousand seven hundred ninety-five, and

WHEREAS, the alumni, trustees, faculty and students of the University of North Carolina are forming plans for the celebration of the one hundred fiftieth anniversary of these three historic events, *Now, therefore,*

Be it Resolved by the Senate, the House of Representatives concurring:

Governor authorized to appoint commission to assist in promotion of celebration.

SECTION 1. That the Governor of the State of North Carolina is hereby empowered and directed to appoint a commission to be composed of seven members to be selected by him for the purpose of assisting and cooperating with the University of North Carolina, its alumni, trustees, faculty and students in the celebration, during the years one thousand nine hundred thirty-nine, one thousand nine hundred forty-three and one thousand nine hundred forty-five, of the one hundred fiftieth anniversary of the founding of the University of North Carolina, of the laying of the cornerstone of the old East Dormitory of the University, and of the opening of the University.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. R. 929 RESOLUTION 46

JOINT RESOLUTION COMMENDING THE AMERICAN LEGION DEPARTMENT OF NORTH CAROLINA FOR ITS ENDEAVORS IN CONNECTION WITH THE ORGANIZATION AND CONDUCT OF "TAR HEEL BOYS' STATE".

Preamble: Program of American Legion Department of N. C. for organization of "Tar Heel Boys' State."

WHEREAS, that organization of veterans of the World War, denominated "American Legion Department of North Carolina", has undertaken as a part of its program of public and patriotic service to gather together a group of selected young men of this State and give to them certain instruction in the practical working of the structure of our Democratic Government and to instill into them the doctrines of real Americanism; and

WHEREAS, said American Legion Department of North Carolina has created from its membership a commission to organize and direct that gathering of young North Carolina citizens to be known as "Tar Heel Boys' State": *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

American Legion Department commended for patriotic service.

SECTION 1. That the Legislature of the State of North Carolina does hereby commend the American Legion Department of North Carolina for its patriotic endeavor in connection with the

organization and conduct of "Boys' State" and does express the hope and the belief that the organized "Boys' State" will grow and produce large and lasting benefits to this State and to its citizens.

SEC. 2. That this Resolution shall be in force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. R. 1004 RESOLUTION 47

A JOINT RESOLUTION TO PROVIDE FOR THE CONVENING OF THE HOUSE OF REPRESENTATIVES IN REGULAR SESSIONS PURSUANT TO THE CONSTITUTION, AND TO ESTABLISH A METHOD FOR THE ASSIGNMENT OF SEATS TO THE MEMBERS OF BOTH BRANCHES OF THE GENERAL ASSEMBLY.

Preamble: Convening of House and Senate, and assignment of seats to members.

WHEREAS, Section twelve of Article Three of the Constitution of North Carolina provides that the Secretary of State shall convene the Senate in case of vacancies, wherein there is no other designated person to do so; and

WHEREAS, there is no duly constituted authority for the convening of the House of Representatives by any person on the day fixed in the Constitution for the Senate and the House of Representatives to meet in biennial sessions; and

WHEREAS, there is no duly constituted authority for the assignment of seats to members in the Chambers of the Senate and House of Representatives; *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

Secretary of State authorized to convene House, and preside until Speaker elected.

SECTION 1. That the Secretary of State be, and he is hereby authorized by virtue of his office and in keeping with the provisions of the Constitution to convene the members of the House of Representatives at high noon on the first Wednesday after the first Monday in January next after their election, and preside over this body until the members elect a Speaker of the House of Representatives.

Secretary of State directed to assign seats to members of Senate and House.

SEC. 2. It shall be the duty of the Secretary of State to assign seats to members of the Senate and House of Representatives in their respective chambers. In making such assignments each member who has served in the immediate preceding session of the General Assembly shall be entitled to the seat occupied by him, or his selection of any other available seat, if requested with-

in five (5) days after the general election. All other members shall be seated in accordance with their desire from the remaining seats available. Those making no requests shall be assigned seats in the discretion of the Secretary of State.

SEC. 3. That all laws and clauses of laws in conflict with this Resolution are hereby repealed. Conflicting laws repealed.

SEC. 4. This Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. R. 1176 RESOLUTION 48

A JOINT RESOLUTION TO BE ENTITLED A RESOLUTION EMPOWERING THE GOVERNOR OF NORTH CAROLINA TO APPOINT A SPECIAL COMMISSION FOR THE PURPOSE OF STUDYING TEACHERS RETIREMENT AND RETIREMENT FOR STATE EMPLOYEES.

WHEREAS, there have been introduced into the House of Representatives House Bill Number six hundred ninety-five providing for the retirement of State officers and employees, and House Bill Number five hundred eighty-two providing for the retirement of teachers and employees of State Educational Institutions; and Preamble: Retirement of teachers, State officers and employees.

WHEREAS, these bills, or either of them, if enacted into law would require large contributions on the part of the State of North Carolina, on the part of the employees of the State of North Carolina, and on the part of the teachers and employees of the educational system of North Carolina; and Problems of contributions and taxation, etc., presented by retirement systems.

WHEREAS, said bills are so different in principle that it is deemed advisable to give more study to the plans and purposes set forth therein; and

WHEREAS, there is not now sufficient time to give said bills the consideration they deserve during this session of the General Assembly: *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate concurring:

SECTION 1. That the Governor of North Carolina be, and he is hereby, authorized, empowered and requested to appoint a special and impartial commission of five citizens of the State of North Carolina for the purpose of making a study of such plans as may be submitted to it by the teachers and employees of the State of North Carolina, and such other plans as said commis- Governor authorized to appoint special commission to study plans and collect information.

sion may think advisable as a result of experience of other states and localities, and to collect such data and information as they, the commission, may be able to obtain and may think advisable to aid in determining the feasibility and advisability of providing some form of retirement benefits for State employees.

Report to Governor and Advisory Budget Commission.

SEC. 2. That the said commission shall make a report of its findings and recommendations to the Governor and Advisory Budget Commission on or before July first, one thousand nine hundred forty, in order that the Governor and the Advisory Budget Commission may, if they think advisable, recommend to the one thousand nine hundred forty-one General Assembly a plan, or plans to be considered looking to the retirement of State employees and teachers, and if they think it advisable, recommend an appropriation for that purpose.

Clerical, etc. assistance.

SEC. 3. That the commission shall, subject to approval of the Director of the Budget, be, and is hereby, empowered to obtain clerical assistance and such other assistance as it may deem proper.

Compensation of members.

SEC. 4. That members of the commission shall be paid the sum of seven dollars ($7.00) per day and such necessary expenses as may be incurred, and as may be approved by the Director of the Budget for their services, this to be paid from the contingency and emergency fund.

Conflicting laws repealed.

SEC. 5. That all laws and clauses of laws in conflict with the provisions of this Act are hereby repealed.

SEC. 6. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. R. 1178 RESOLUTION 49

A JOINT RESOLUTION AUTHORIZING AND DIRECTING THE SECRETARY OF STATE TO HAVE PRINTED FIVE THOUSAND COPIES OF HOUSE BILL EIGHT HUNDRED AND FIFTY-SIX, KNOWN AS "THE SCHOOL MACHINERY ACT," AS ENACTED INTO LAW AND THAT THE DISTRIBUTION THEREOF BE UNDER THE DIRECTION OF THE STATE SUPERINTENDENT OF PUBLIC INSTRUCTION AND THE STATE SCHOOL COMMISSION.

Resolved by the House of Representatives, the Senate concurring:

Printing of "The School Machinery Act" for distribution.

SECTION 1. That the Secretary of State be, and he is hereby authorized and directed to have printed five thousand copies of House Bill number eight hundred and fifty-six, known as "The

School Machinery Act," as enacted into law to be distributed by the State Superintendent of Public Instruction and the State School Commission.

SEC. 2. That all laws and clauses of laws in conflict with this Act are hereby repealed.

SEC. 3. This Act shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

H. R. 1180 RESOLUTION 50

A JOINT RESOLUTION DESIGNATING THE MONTH OF APRIL AS STATE CANCER CONTROL MONTH IN CO-OPERATION WITH THE RESOLUTION OF THE CONGRESS OF THE UNITED STATES.

Preamble: Designation of April as "Cancer Control Month" by Congressional enactment, etc.

WHEREAS, April has been designated by Congressional Enactment and Presidential Proclamation as National Cancer Control Month; and

WHEREAS, from April first to April thirtieth the Woman's Field Army against cancer conducts its enlistment campaign and endeavors to call to public attention by means of early diagnosis of treatment where cancer develops; and

Services of the Woman's Field Army.

WHEREAS, the purpose of the Woman's Field Army is to educate the public about cancer and its cure, if treated immediately, to assist in the establishment and maintenance of Cancer Clinics, and to encourage the expansion of Cancer Research; and

WHEREAS, cancer ranks second in the United States as a cause of death and the death toll has been going up every year for many years: *Now, therefore,*

Be it Resolved by the House of Representatives, the Senate Concurring:

April designated as "Cancer Control Month."

SECTION 1. That the General Assembly of North Carolina do hereby designate the month of April as State Cancer Control month for the purpose of cooperating with the resolution of Congress designating April as National Cancer Control month.

Support of citizenship enlisted.

SEC. 2. That the General Assembly do request and call upon the citizens of North Carolina to give all possible support to the enlistment campaign of the Woman's Field Army.

SEC. 3. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 3rd day of April, 1939.

S. R. 503 **RESOLUTION 51**

A JOINT RESOLUTION AUTHORIZING AND DIRECTING THE SECRETARY OF STATE TO HAVE PRINTED CERTAIN BILLS PASSED BY THE GENERAL ASSEMBLY RELATING TO THE PUBLIC HEALTH AND PLACING THE DISTRIBUTION THEREOF UNDER THE DIRECTION OF THE STATE BOARD OF HEALTH.

Preamble: Laws passed by General Assembly relating to public health.

WHEREAS, Senate Bill one hundred nineteen, "A Bill to Prevent Diphtheria Requiring Diphtheria Immunization of Children" and Senate Bill one hundred twenty, "A Bill to Further the Prevention of Syphilis in Unborn Children in North Carolina by Requiring Blood Test Examination of Prospective Mothers" and Senate Bill one hundred twenty-one "A Bill to Require Physical Examination Before Issuance of License to Marry" are laws which require public compliance with certain public health regulations; and

Desire that the public be informed.

WHEREAS, it is desired that the public be fully informed concerning these regulations in order that the enforcement of the laws may be more effective: *Now, therefore,*

Be it Resolved by the Senate, the House of Representatives concurring:

Printing of Acts authorized for distribution by State Board of Health.

SECTION 1. That the Secretary of State be and he is hereby authorized and directed to have printed five thousand copies of the above mentioned bills in one pamphlet form as enacted into law and the distribution of the same shall be under the direction of the State Board of Health.

SEC. 2. That this Resolution shall be in full force and effect from and after its ratification.

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

H. R. 1181 **RESOLUTION 52**

JOINT RESOLUTION BY THE GENERAL ASSEMBLY OF NORTH CAROLINA PROVIDING FOR ADJOURNMENT ON APRIL FOURTH, ONE THOUSAND NINE HUNDRED AND THIRTY-NINE.

Resolved by the House of Representatives the Senate concurring:

Time of sine die adjournment.

SECTION 1. That both the House of Representatives and the Senate, constituting the General Assembly of one thousand nine hundred and thirty-nine, do adjourn sine die on Tuesday, April

fourth, one thousand nine hundred and thirty-nine at twelve o'clock noon or earlier, if possible.

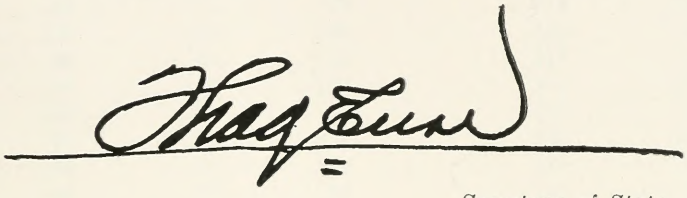
SEC. 2. That all laws and clauses of laws in conflict herewith are hereby repealed. Conflicting laws repealed.

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

In the General Assembly read three times and ratified, this the 4th day of April, 1939.

STATE OF NORTH CAROLINA,
DEPARTMENT OF STATE.
RALEIGH, APRIL 19, 1939.

I, THAD EURE, Secretary of the State of North Carolina, hereby certify that the foregoing (manuscript) are true copies of the original acts and resolutions on file in this office.



Secretary of State.

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